

HB0932/755867/1

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 932
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, strike “the Education Trust Fund” and substitute “The Blueprint for Maryland’s Future Fund”; strike beginning with “providing” in line 5 down through “service;” in line 6 and substitute “providing that the retail sale of a certain digital code or digital product shall be presumed to be made in the state in which a certain customer tax address is located;”; after line 8, insert:

“BY repealing and reenacting, without amendments,
Article – Education
Section 5–219(b)
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 5–219(f)
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)”;

in line 11, after “11–102(a),” insert “11–103.”; and in line 16, strike “and (e)”.

AMENDMENT NO. 2

On page 1, after line 20, insert:

“Article – Education

5–219.

(Over)

HB0932/755867/1 Committee on Ways and Means
Amendments to HB 932
Page 2 of 7

(b) There is The Blueprint for Maryland’s Future Fund.

(f) The Fund consists of:

(1) Revenue distributed to the Fund under §§ 2–605.1, 2–1302.1, and 2–1303 of the Tax – General Article;

(2) Money appropriated in the State budget for the Fund; and

(3) Any other money from any other source accepted for the benefit of the Fund.”.

On page 2, strike beginning with the second “THE” in line 9 down through “ARTICLE” in line 11 and substitute “**THE BLUEPRINT FOR MARYLAND’S FUTURE FUND ESTABLISHED UNDER § 5–219 OF THE EDUCATION ARTICLE**”.

AMENDMENT NO. 3

On page 3, after line 11, insert:

“(C–1) “CUSTOMER TAX ADDRESS” MEANS, WITH RESPECT TO A SALE OF A DIGITAL PRODUCT:

(1) FOR A DIGITAL PRODUCT THAT IS RECEIVED BY A BUYER AT THE BUSINESS LOCATION OF THE VENDOR, THE ADDRESS OF THAT BUSINESS LOCATION;

(2) IF ITEM (1) OF THIS SUBSECTION IS NOT APPLICABLE AND THE PRIMARY USE LOCATION OF THE DIGITAL PRODUCT IS KNOWN BY THE VENDOR, THAT PRIMARY USE LOCATION;

(3) IF ITEMS (1) AND (2) OF THIS SUBSECTION ARE NOT APPLICABLE, THE LOCATION WHERE THE DIGITAL PRODUCT IS RECEIVED BY THE BUYER, OR BY A DONEE OF THE BUYER THAT IS IDENTIFIED BY THE BUYER, IF KNOWN TO THE VENDOR AND MAINTAINED IN THE ORDINARY COURSE OF THE VENDOR'S BUSINESS;

(4) IF ITEMS (1) THROUGH (3) OF THIS SUBSECTION ARE NOT APPLICABLE, THE LOCATION INDICATED BY AN ADDRESS FOR THE BUYER THAT IS AVAILABLE FROM THE BUSINESS RECORDS OF THE VENDOR THAT ARE MAINTAINED IN THE ORDINARY COURSE OF BUSINESS OF THE VENDOR'S BUSINESS, WHEN USE OF THE ADDRESS DOES NOT CONSTITUTE BAD FAITH;

(5) IF ITEMS (1) THROUGH (4) OF THIS SUBSECTION ARE NOT APPLICABLE, THE LOCATION INDICATED BY AN ADDRESS FOR THE BUYER OBTAINED DURING THE CONSUMMATION OF THE SALE, INCLUDING THE ADDRESS OF THE BUYER'S PAYMENT INSTRUMENT, WHEN USE OF THE ADDRESS DOES NOT CONSTITUTE BAD FAITH; OR

(6) IF ITEMS (1) THROUGH (5) OF THIS SUBSECTION ARE NOT APPLICABLE, INCLUDING A CIRCUMSTANCE IN WHICH A VENDOR IS WITHOUT SUFFICIENT INFORMATION TO APPLY THOSE ITEMS, ONE OF THE FOLLOWING LOCATIONS, AS SELECTED BY THE VENDOR, PROVIDED THAT THE LOCATION IS CONSISTENTLY USED BY THE VENDOR FOR ALL SALES TO WHICH THIS ITEM APPLIES:

(1) THE LOCATION IN THE UNITED STATES OF THE HEADQUARTERS OF THE VENDOR'S BUSINESS;

(Over)

(II) THE LOCATION IN THE UNITED STATES WHERE THE VENDOR HAS THE GREATEST NUMBER OF EMPLOYEES; OR

(III) THE LOCATION IN THE UNITED STATES FROM WHICH THE VENDOR MAKES DIGITAL PRODUCTS AVAILABLE FOR ELECTRONIC TRANSFER.”;

in lines 12, 14, and 23, strike “(c-1)”, “(C-2)”, and “(C-3)”, respectively, and substitute “(C-2)”, “(C-3)”, and “(C-4)”, respectively; in line 15, after “OBTAINED” insert “BY ANY MEANS, INCLUDING”; in line 19, strike “SPECIFIED”; in line 21, strike “IS” and substitute “MAY BE”; in the same line, strike “A SPECIFIED” and substitute “AN ITEM OTHER THAN A”; and in line 24, strike “AND” and substitute “OR”.

On page 4, in lines 20 and 25, strike “(C-4)” and “(C-5)”, respectively, and substitute “(C-5)” and “(C-6)”, respectively; and in line 21, after “A” insert “DIGITAL”.

On page 5, in line 13, strike “(C-6)” and substitute “(C-7)”; and strike in their entirety lines 16 through 22, inclusive, and substitute:

“(C-8) “PERMANENT” MEANS PERPETUAL OR FOR AN INDEFINITE OR UNSPECIFIED LENGTH OF TIME.”.

On page 6, after line 1, insert:

“(E-1)(1) “PRIMARY USE LOCATION” MEANS THE STREET ADDRESS REPRESENTATIVE OF WHERE THE BUYER’S USE OF A DIGITAL PRODUCT WILL PRIMARILY OCCUR, AS DETERMINED BY:

(I) THE RESIDENTIAL STREET ADDRESS OR A BUSINESS STREET ADDRESS OF THE ACTUAL END USER OF THE DIGITAL PRODUCT,

INCLUDING, IF APPLICABLE, THE ADDRESS OF A DONEE OF THE BUYER THAT IS DESIGNATED BY THE BUYER; OR

(II) IF THE BUYER IS NOT AN INDIVIDUAL, THE LOCATION OF THE BUYER'S EMPLOYEES OR EQUIPMENT THAT MAKES USE OF THE DIGITAL PRODUCT.

(2) "PRIMARY USE LOCATION" DOES NOT INCLUDE THE LOCATION OF A PERSON WHO USES A DIGITAL PRODUCT AS THE PURCHASER OF A SEPARATE GOOD OR SERVICE FROM THE BUYER."

On page 7, in line 18, after the second "TO," insert "STREAMING OF,".

On page 8, after line 30, insert:

"(J-4) "SUBSCRIPTION" MEANS, WITH RESPECT TO A DIGITAL PRODUCT, AN ARRANGEMENT WITH A VENDOR THAT GRANTS A BUYER THE RIGHT TO OBTAIN DIGITAL PRODUCTS FROM WITHIN ONE OR MORE PRODUCT CATEGORIES HAVING THE SAME TAX TREATMENT, IN A FIXED QUANTITY OR FOR A FIXED PERIOD OF TIME OR BOTH."

On page 9 in lines 19 and 20, on page 12 in line 27, and on page 13 in line 8, in each instance, after "OR" insert "DIGITAL".

On page 11, in line 27, strike "MULTICHANNEL".

On page 13, in line 18, strike the second "OR"; and in line 20, after "USER" insert "; OR".

(Over)

(VI) THE USE OR TRANSFER OF A DIGITAL PRODUCT OR DIGITAL CODE BY THE TRANSFEROR AND OBTAINED BY THE END USER FREE OF CHARGE".

On page 14, after line 7, insert:

"(P) (1) "VIDEO PROGRAMMING SERVICE" MEANS PROGRAMMING PROVIDED BY, OR GENERALLY CONSIDERED COMPARABLE TO PROGRAMMING PROVIDED BY, A TELEVISION BROADCAST STATION AND INFORMATION THAT THE PROVIDER OF THE SERVICE MAKES AVAILABLE TO ALL SUBSCRIBERS GENERALLY, INCLUDING:

(I) CABLE SERVICE, AS DEFINED IN 47 U.S.C. § 522(6);

(II) DIRECT-TO-HOME SATELLITE SERVICES, AS DEFINED IN 47 U.S.C. § 303(V); AND

(III) INTERACTIVE ON-DEMAND SERVICES, AS DEFINED IN 47 U.S.C. § 522(12).

(2) "VIDEO PROGRAMMING SERVICE" DOES NOT INCLUDE A DIGITAL PRODUCT.";

and after line 12, insert:

"11-103.

(a) A rebuttable presumption exists that any sale in the State is subject to the sales and use tax imposed under § 11-102(a)(1) of this subtitle.

HB0932/755867/1 Committee on Ways and Means
Amendments to HB 932
Page 7 of 7

(b) The person required to pay the sales and use tax has the burden of proving that a sale in the State is not subject to the sales and use tax.

(C) THE RETAIL SALE OF A DIGITAL CODE OR DIGITAL PRODUCT SHALL BE PRESUMED TO BE MADE IN THE STATE IN WHICH THE CUSTOMER TAX ADDRESS IS LOCATED.

AMENDMENT NO. 4

On page 14, strike in their entirety lines 20 through 26, inclusive.