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Chapter 119
(continued)

SUBTITLE 2. PETITION TO ESTABLISH DRAINAGE ASSOCIATION.

26–201. FILING.

A PETITION TO ESTABLISH A DRAINAGE ASSOCIATION SHALL BE FILED WITH THE DESIGNATED OFFICER OF THE COUNTY IN WHICH ALL OR A PART OF THE LAND TO BE AFFECTED BY THE PROPOSED DRAINAGE ASSOCIATION IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 53(a), as it related to the filing of a petition to establish a drainage association.

The reference to a petition "to establish a drainage association" is added for clarity.

The word "shall" is substituted for the former word "may" to clarify that it is a requirement that a petition be filed with the county.

The reference to "the land to be affected by the proposed drainage association" is substituted for the former reference to "such body of land" for clarity.

Defined terms: "County" § 1–101
"Designated officer" § 26–101
"Drainage association" § 26–101

26–202. PETITION.

(A) CONTENTS.

THE PETITION SHALL:

(1) CLEARLY DESCRIBE THE AREA'S LOCATION, BOUNDARIES, AND NEED OF DRAINAGE FOR OPTIMAL CROP PRODUCTION;

(2) DESCRIBE HOW DRAINING OR DITCHING THE AREA OR CHANGING THE NATURAL WATERCOURSE BENEFITS THE PUBLIC OR PROMOTES THE PUBLIC HEALTH, SAFETY, OR WELFARE; AND

(3) REQUEST THE ESTABLISHMENT OF A DRAINAGE ASSOCIATION FOR THE PURPOSES LISTED IN ITEM (2) OF THIS SUBSECTION.

(B) REQUIRED SIGNATURES.

A PETITION IS VALID ONLY IF SIGNED BY AT LEAST ONE–THIRD OF THE LANDOWNERS OR THE OWNERS OF AT LEAST ONE–THIRD OF THE LAND IN A WATERSHED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 53(a), as it related to the content of a petition to establish a drainage association and the signatures required for the petition.

In subsection (a)(1) of this section, the reference to "clearly" describing the area is substituted for the former reference to describing the area "in such a way as to convey an intelligent idea" for brevity.

In subsection (a)(2) of this section, the reference to draining "benefit[ing] the public or promot[ing] the public health, safety, or welfare" is substituted for the former reference to "the public benefit or utility, or the public health, convenience or welfare would be promoted by draining" for consistency with similar terminology in the Code.

Also in subsection (a)(2) of this section, the reference to the "area" is substituted for the former reference to the "same" for clarity.

Also in subsection (a)(2) of this section, the former reference to "improving" the natural watercourse is deleted as included in the reference to "changing" the natural watercourse.

In subsection (b) of this section, the phrase "[a] petition is valid only if" is substituted for the former phrase "[a] petition … may be filed" for clarity.

Defined terms: "Drainage association" § 26–101
"Landowner" § 26–101

26–203. REPORT REQUIRED.

(A) IN GENERAL.

(1) THE PETITION SHALL BE ACCOMPANIED BY A REPORT FROM THE LOCAL SOIL CONSERVATION DISTRICTS SERVING THE AREA OF THE PROPOSED DRAINAGE ASSOCIATION.

(2) THE REPORT SHALL STATE:

(I) THE SIZE AND LOCATION OF THE AREA OF THE PROPOSED DRAINAGE ASSOCIATION;

(II) THE NATURE OF THE PROBLEM TO BE ADDRESSED;

(III) THE TYPE OF TREATMENT BELIEVED TO BE NEEDED AND THE BENEFITS ANTICIPATED;

(IV) WHETHER THE PROPOSED DRAINAGE ASSOCIATION IS FEASIBLE AND IS GENERALLY SUPPORTED BY THE LANDOWNERS IN THE AREA;

(V) WHETHER THE PROPOSED DRAINAGE ASSOCIATION WILL BENEFIT THE PUBLIC AND PROMOTE THE PUBLIC HEALTH, SAFETY, AND WELFARE;

(VI) THE NAME OF THE PROPOSED DRAINAGE ASSOCIATION, IN THE FORM OF THE "_____ PUBLIC DRAINAGE ASSOCIATION"; AND

(VII) THE NUMBER OF MANAGERS, EQUALING NOT LESS THAN THREE, TO SERVE AS THE BOARD OF MANAGERS.

(B) MAPS OF AREA AFFECTED.

THE LOCAL SOIL CONSERVATION DISTRICTS SHALL FILE WITH THE REPORT MAPS THAT SHOW:

(1) A GENERAL DELINEATION OF THE AREA OF THE PROPOSED DRAINAGE ASSOCIATION; AND

(2) THE AREA'S LOCATION IN EACH COUNTY IN WHICH IT LIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 53(b).

In subsections (a)(1) and (2)(i) and (b)(1) of this section, the references to the area "of" the proposed drainage association are added for clarity and consistency within this title.

In subsection (a)(1) of this section, the reference to the districts "serving" the area is substituted for the former reference to the districts "lying in whole or in part within" the area for clarity.

In subsection (a)(2)(ii) of this section, the reference to the problem "to be addressed" is added for clarity.

In subsection (a)(2)(iv) of this section, the former reference to the drainage association being "practicable" is deleted as implicit in the reference to the association being "feasible".

In subsection (a)(2)(v) of this section, the reference to the drainage association "benefit[ing] the public and promot[ing] the public health, safety, and welfare" is substituted for the former reference to the drainage association "promot[ing] the public benefit, and be[ing] conducive to the public health, safety, and welfare" for consistency with similar terminology in the Code.

In subsection (a)(2)(vii) of this section, the reference to the "board of managers" is substituted for the former reference to the "governing body" for clarity and to avoid the erroneous application of the defined term "governing body".

In the introductory language of subsection (b) of this section, the reference to a "local" soil conservation district is added for consistency within this title.

In subsection (b)(2) of this section, the reference to "each county in which it lies" is substituted for the former reference to "the county or counties indicated" for clarity.

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Drainage association" § 26–101
"Landowner" § 26–101

26–204. EXAMINATION OF PETITION AND REPORT; HEARING; NOTICE.

(A) EXAMINATION OF PETITION AND REPORT.

(1) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL EXAMINE THE PETITION AND REPORT AT THE FIRST MEETING AFTER RECEIVING THE PETITION AND REPORT.

(2) IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL FIND THE PETITION AND REPORT ARE NOT IN PROPER FORM OR NOT IN COMPLIANCE WITH THE LAW, THE PETITION AND REPORT SHALL BE RETURNED TO THE PETITIONERS TO BE CORRECTED AND RESUBMITTED.

(3) IF THE PETITION AND REPORT ARE IN PROPER FORM AND IN COMPLIANCE WITH THE LAW, THE COUNTY COMMISSIONERS OR COUNTY

COUNCIL SHALL SET A DATE FOR A PUBLIC HEARING ON THE PETITION AND REPORT.

(B) NOTICE.

(1) AT LEAST 10 DAYS BEFORE THE HEARING, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(I) PUBLISH NOTICE OF THE TIME AND PLACE OF THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN THE AREA IN WHICH THE PROPOSED DRAINAGE ASSOCIATION WOULD BE LOCATED; AND

(II) SEND NOTICE OF THE HEARING AND ANY LATER HEARING TO THE:

1. DEPARTMENT OF AGRICULTURE; AND

2. STATE SOIL CONSERVATION COMMITTEE IN THE DEPARTMENT OF AGRICULTURE.

(2) THE NOTICE OF THE HEARING SHALL STATE THAT A COPY OF THE REPORT IS AVAILABLE FOR INSPECTION IN THE OFFICE OF THE DESIGNATED OFFICER.

(C) REPORT AVAILABLE FOR INSPECTION.

A COPY OF THE REPORT SHALL BE AVAILABLE FOR INSPECTION IN THE OFFICE OF THE DESIGNATED OFFICER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 54.

In subsection (a)(1) of this section, the reference to the requirement that the local authority "examine the petition and report" is added for consistency with § 25–204 of this article, which applies to watershed associations.

In subsection (a)(2) of this section, the reference to the petition and report being "resubmitted" is substituted for the former reference to the petition and report being returned "to the county commissioners at a subsequent meeting" for brevity.

Also in subsection (a)(2) of this section, the reference to the petition being "returned" is substituted for the former references to the petition being "reject[ed]" and "referred back" for clarity.

In subsection (b)(1)(i) of this section, the reference to each "county in the area in which the proposed drainage association would be located" is substituted for the former reference to the "county or counties in which the lands in the drainage association are located" for clarity.

Also in subsection (b)(1)(i) of this section, the former reference to "newspapers" is deleted in light of the reference to "newspaper" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (c) of this section, the former reference to "[d]uring this time" is deleted as surplusage.

Also in subsection (c) of this section, the former reference to inspection "by any landowners or other person interested" is deleted as surplusage.

Defined terms: "County" § 1–101
"Designated officer" § 26–101
"Drainage association" § 26–101

26–205. MULTIPLE COUNTIES — JURISDICTION AND VENUE.

IF THE LAND DESCRIBED IN THE PETITION IS LOCATED IN TWO OR MORE COUNTIES, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF AN AFFECTED COUNTY MAY EXERCISE THE JURISDICTION CONFERRED IN THIS TITLE, BUT THE VENUE SHALL LIE IN THE COUNTY IN WHICH THE PETITION IS FILED.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 25, § 55.

Defined term: "County" § 1–101

26–206. HEARING AND ACTION ON PETITION AND REPORT.

(A) PARTICIPANTS.

AT THE HEARING ON THE PETITION AND REPORT, THE PETITIONERS, ANY AFFECTED LOCAL SOIL CONSERVATION DISTRICT, AND ANY OTHER PERSON MAY APPEAR IN PERSON OR BY COUNSEL AND OBJECT TO ANY PART OF THE REPORT.

(B) AUTHORITY OF COUNTY.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY:

(1) DISAPPROVE THE PETITION AND REPORT AND RETURN THEM TO THE PETITIONERS FOR AMENDMENT IN VIEW OF THE OBJECTIONS PRESENTED; OR

(2) APPROVE THE PETITION AND REPORT AS SUBMITTED OR AMENDED.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 25, § 57.

In subsection (a) of this section, the reference to the hearing "on the petition and report" is added for clarity.

Also in subsection (a) of this section, the reference to a "local" soil conservation district is added for consistency within this title.

Also in subsection (a) of this section, the former reference to soil conservation "districts" is deleted in light of the reference to a soil conservation "district" and Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (a) of this section, the former reference to a soil conservation district "being represented" is deleted as surplusage.

Also in subsection (a) of this section, the reference to any "other person" is substituted for the former reference to any "person interested in the matter" for brevity.

In subsection (b)(1) of this section, the reference to "return[ing] them" is substituted for the former reference to "refer[ring] them back" for brevity.

Defined term: "Person" § 1–101

SUBTITLE 3. ESTABLISHMENT AND ORGANIZATION.

26–301. ESTABLISHMENT OF DRAINAGE ASSOCIATION.

(A) APPROVAL OF PETITION AND REPORT.

ON APPROVAL OF THE PETITION AND REPORT FILED UNDER SUBTITLE 2 OF THIS TITLE, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(1) ESTABLISH A DRAINAGE ASSOCIATION THAT IS COMPOSED OF THE LANDOWNERS; AND

(2) NAME THE ORGANIZATION THE "_____ PUBLIC DRAINAGE ASSOCIATION".

(B) STATUS.

A DRAINAGE ASSOCIATION CREATED UNDER THIS TITLE IS A POLITICAL SUBDIVISION OF THE STATE AND A BODY POLITIC AND CORPORATE.

(C) POWERS.

A DRAINAGE ASSOCIATION MAY:

(1) ACQUIRE, HOLD, AND CONVEY PROPERTY;

(2) SUE AND BE SUED;

(3) ADOPT A SEAL; AND

(4) EXERCISE CORPORATE POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 59 and the third sentence of § 57.

In the introductory language of subsection (a) of this section, the reference to filing "under Subtitle 2 of this title" is added for clarity.

In subsection (a)(1) of this section, the former reference to "all the lands within the boundaries of the association" is deleted as surplusage.

In subsection (b) of this section, the former reference to a drainage association "under the name and title of the '_____ Public Drainage Association'" is deleted as unnecessary since it is established in subsection (a) of this section that the commissioners will name the drainage association.

In subsection (c)(3) of this section, the former reference to "alter[ing]" the seal "at pleasure" is deleted as implicit in the reference to "adopt[ing]" the seal.

Defined terms: "Drainage association" § 26–101
"Landowner" § 26–101
"State" § 1–101

26–302. BOARD OF MANAGERS — INITIAL ELECTION.

(A) MEETING OF LANDOWNERS.

WITHIN 30 DAYS AFTER THE APPROVAL OF THE PETITION AND REPORT, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL CALL A MEETING OF THE LANDOWNERS TO ELECT A BOARD OF MANAGERS.

(B) NOTICE.

(1) AT LEAST 10 DAYS BEFORE THE MEETING, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL POST A NOTICE OF THE MEETING AT FOUR PUBLIC PLACES IN THE AREA OR VICINITY OF THE AREA OF THE DRAINAGE ASSOCIATION.

(2) THE NOTICE SHALL STATE THE TIME, PLACE, AND PURPOSE OF THE MEETING.

(C) RIGHT TO VOTE.

(1) EACH LANDOWNER IS ENTITLED TO VOTE IN THE ELECTION OF THE BOARD OF MANAGERS UNTIL THE BOARD OF VIEWERS REPORT IS APPROVED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(2) WHEN THE REPORT OF THE BOARD OF VIEWERS IS APPROVED, EACH LANDOWNER IS ENTITLED TO VOTE ACCORDING TO THE SPECIAL ASSESSMENT ON THE LANDOWNER SHOWN IN THE REPORT AS FOLLOWS:

(I) FOR ANY SPECIAL ASSESSMENT NOT EXCEEDING $15, ONE VOTE;

(II) FOR ANY SPECIAL ASSESSMENT MORE THAN $15 AND NOT EXCEEDING $35, TWO VOTES;

(III) FOR ANY SPECIAL ASSESSMENT MORE THAN $35 AND NOT EXCEEDING $60, THREE VOTES;

(IV) FOR ANY SPECIAL ASSESSMENT MORE THAN $60 AND NOT EXCEEDING $100, FOUR VOTES;

(V) FOR ANY SPECIAL ASSESSMENT MORE THAN $100, ONE ADDITIONAL VOTE FOR EACH $50 IN EXCESS OF $100, PLUS ONE ADDITIONAL VOTE FOR ANY REMAINING PART LESS THAN $50.

(3) ANY LANDOWNER MAY VOTE BY WRITTEN PROXY SIGNED BY THE LANDOWNER.

(D) QUORUM.

A QUORUM CONSISTS OF THE NUMBER OF LANDOWNERS WHO ARE ENTITLED TO CAST A MAJORITY OF ALL THE VOTES AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

(E) APPOINTMENT IN ABSENCE OF QUORUM.

ON PROOF THAT NOTICE HAS BEEN GIVEN AS REQUIRED IN SUBSECTION (B) OF THIS SECTION, IF A QUORUM IS NOT OBTAINED, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT THE MANAGERS.

(F) STAGGERING OF INITIAL TERMS.

THE BOARD OF MANAGERS ELECTED UNDER SUBSECTION (A) OF THIS SECTION SHALL DETERMINE BY A RANDOM DRAWING THE MANAGERS WHO:

(1) SERVE UNTIL THE DATE OF THE FIRST REGULAR ANNUAL MEETING;

(2) SERVE UNTIL THE DATE OF THE FIRST REGULAR ANNUAL MEETING AND FOR 1 YEAR THEREAFTER; OR

(3) SERVE UNTIL THE DATE OF THE FIRST REGULAR ANNUAL MEETING AND FOR 2 YEARS THEREAFTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, §§ 58 and 61.

In subsection (a) of this section, the reference to calling "a meeting of the landowners" is substituted for the former reference to calling "together the owners of all land within the public drainage association" for clarity and consistency within this subtitle.

In subsection (b)(1) of this section, the reference to places "in the area or vicinity of the area of the drainage association" is substituted for the

former reference to places "within the drainage association or in the vicinity thereof" for clarity and consistency within this title.

In subsection (c)(1) of this section, the reference to the election "of the board of managers" is substituted for the former reference to "such" election for clarity.

In subsection (c)(3) of this section, the reference to a "written proxy signed by the landowner" is substituted for the former reference to a "proxy, authorized by writing, under his hand" for clarity.

In subsection (d) of this section, the reference to the "number of landowners who are entitled" is substituted for the former reference to "[l]andowners who shall be entitled" for clarity.

Also in subsection (d) of this section, the former reference to a quorum "for the purposes aforesaid" is deleted as surplusage.

In subsection (e) of this section, the reference to a "quorum [that] is not obtained" is substituted for the former reference to "such landowners constituting a quorum [that] refuse or fail to meet" for brevity.

In subsection (f) of this section, the reference to determining "by a random drawing" is substituted for the former reference to determining "by the drawing of lots" to provide clarity through the use of more modern terminology.

Also in subsection (f) of this section, the former reference to an annual meeting "as hereinafter provided in this subtitle" is deleted as surplusage.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101
"Drainage association" § 26–101
"Landowner" § 26–101

26–303. BOARD OF MANAGERS — TENURE; VACANCIES.

(A) TENURE.

(1) THE TERM OF EACH MANAGER IS 3 YEARS.

(2) EACH MANAGER SHALL SERVE UNTIL A SUCCESSOR IS ELECTED OR APPOINTED.

(B) ELECTION TO FILL VACANCIES.

(1) EACH YEAR, THE LANDOWNERS SHALL MEET TO ELECT A SUCCESSOR TO:

(I) ANY MANAGER WHOSE TERM EXPIRED ON OR BEFORE THE DATE OF THE MEETING; AND

(II) ANY MANAGER WHO DIED OR RESIGNED SINCE THE LAST ANNUAL MEETING.

(2) A MANAGER WHO IS ELECTED TO FILL A VACANCY CAUSED BY DEATH OR RESIGNATION SHALL HOLD THE OFFICE FOR THE REST OF THE TERM.

(C) APPOINTMENT TO FILL VACANCIES.

(1) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT AN INDIVIDUAL TO FILL A VACANCY ON THE BOARD OF MANAGERS IF:

(I) THE BOARD OF MANAGERS DOES NOT CALL AN ANNUAL MEETING OF LANDOWNERS; OR

(II) THE BOARD OF MANAGERS HOLDS AN ANNUAL MEETING OF LANDOWNERS BUT A QUORUM IS NOT PRESENT.

(2) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY APPOINT A MANAGER TO FILL A VACANCY ON THE BOARD OF MANAGERS UNTIL THE NEXT ANNUAL MEETING OF LANDOWNERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, §§ 65 and 66 and the first sentence of § 64.

In subsection (a)(1) of this section, the reference to "each manager" is substituted for the former reference to "[m]embers of the board of managers elected or appointed under § 64 or § 65 of this subtitle" for brevity.

In subsection (b)(1)(ii) of this section, the reference to any "manager" is substituted for the former reference to any "other or others" for clarity.

Also in subsection (b)(1)(ii) of this section, the reference to the last "annual" meeting is substituted for the former reference to the last "regular" meeting for clarity and consistency throughout this subtitle.

In subsection (b)(2) of this section, the reference to the "rest of the" term is substituted for the former reference to the "unexpired balance" of the term for clarity and consistency with other revised articles of the Code.

Also in subsection (b)(2) of this section, the former reference to managers holding an office "until his successor is elected or appointed" is deleted as redundant of subsection (a)(2) of this section.

In the introductory language of subsection (c)(1) of this section, the reference to an "individual" is substituted for the former reference to a "person or persons" because only a human being and not the other entities included in the definition of "person" can serve as a manager.

Also in the introductory language of subsection (c)(1) of this section, the former phrase "upon proof being given" is deleted as surplusage.

Also in the introductory language of subsection (c)(1) of this section, the former reference to "vacancies" is deleted in light of the reference to "vacancy" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (c)(2) of this section, the former reference to a vacancy "caused by death, resignation, or for any reason" is deleted as surplusage.

Defined terms: "Board of managers" § 26–101
"Landowner" § 26–101

26–304. OFFICERS.

THE BOARD OF MANAGERS SHALL ELECT A CHAIR AND A SECRETARY FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 60A.

The former reference to the board of managers "so elected or appointed having determined the length of term of the several members," is deleted as redundant of § 26–302(d) of this subtitle which provides for the election or appointment and term of a manager.

The former phrase "proceed at once to organize by" electing officers is deleted as surplusage.

Defined term: "Board of managers" § 26–101

26–305. IMMUNITY FROM LIABILITY.

AN OFFICER OR DIRECTOR OF A DRAINAGE ASSOCIATION SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5–508(B) OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 60, as it related to the immunity from liability of an officer or director of a drainage association.

Defined term: "Drainage association" § 26–101

26–306. DISTRIBUTION AND RETENTION OF PETITION AND REPORT.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(1) RETAIN THE ORIGINAL PETITION AND REPORT APPROVED UNDER § 26–206(B) OF THIS TITLE; AND

(2) DELIVER A COPY OF THE APPROVED PETITION AND REPORT TO THE BOARD OF MANAGERS AND THE STATE SOIL CONSERVATION COMMITTEE IN THE DEPARTMENT OF AGRICULTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 62.

The former reference to the petition and report as approved "by the board of county commissioners" is deleted as surplusage.

In item (1) of this section, the reference to the petition and report approved "under § 26–206(b) of this title" is added for clarity.

Also in item (1) of this section, the former reference to retaining the original "in their official records" is deleted as surplusage.

Also in item (1) of this section, the former reference to retaining "one copy of" the petition is deleted as surplusage. Similarly, in item (2) of this section, the former reference to a "third" copy is deleted.

Defined term: "Board of managers" § 26–101

26–307. DRAINAGE FILE.

(A) DESIGNATED OFFICER TO MAINTAIN.

THE DESIGNATED OFFICER SHALL MAINTAIN A DRAINAGE FILE.

(B) CONTENTS.

THE DRAINAGE FILE SHALL CONTAIN THE PETITIONS, MOTIONS, ORDERS, REPORTS, AND OTHER EXHIBITS NECESSARY FOR A COMPLETE RECORD OF THE ESTABLISHMENT OF EACH DRAINAGE ASSOCIATION IN THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 75.

In subsection (b) of this section, the former reference to a "continuous" record is deleted as included in the reference to a "complete" record.

Defined terms: "County" § 1–101
"Designated officer" § 26–101
"Drainage association" § 26–101

26–308. ANNUAL MEETINGS OF LANDOWNERS.

(A) IN GENERAL.

IN JANUARY OF EACH YEAR, THE BOARD OF MANAGERS SHALL CALL A MEETING OF THE LANDOWNERS.

(B) NOTICE.

(1) AT LEAST 10 DAYS BEFORE THE MEETING, THE BOARD OF MANAGERS SHALL POST A NOTICE OF THE MEETING AT FOUR PUBLIC PLACES IN THE VICINITY OF THE DRAINAGE PROJECT.

(2) THE NOTICE SHALL STATE THE TIME, PLACE, AND PURPOSE OF THE MEETING.

(C) ANNUAL REPORT AND OTHER BUSINESS.

AT THE MEETING, THE LANDOWNERS SHALL:

(1) RECEIVE THE ANNUAL REPORT OF THE BOARD OF MANAGERS; AND

(2) TRANSACT ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE LANDOWNERS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 25, § 63 and the second sentence of § 64.

In subsection (a) of this section, the former reference to "on a date they select" is deleted as surplusage.

In subsection (b) of this section, the former reference to "the most" public places is deleted as surplusage.

In the introductory language of subsection (c) of this section, the phrase "[a]t the meeting" is added for clarity.

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Landowner" § 26–101

26–309. SPECIAL MEETINGS.

(A) IN GENERAL.

THE BOARD OF MANAGERS MAY CALL A SPECIAL MEETING OF LANDOWNERS AT ANY TIME.

(B) NOTICE.

(1) AT LEAST 10 DAYS BEFORE THE MEETING, THE BOARD OF MANAGERS SHALL:

(I) POST A NOTICE OF THE MEETING AT FOUR PUBLIC PLACES IN THE VICINITY OF THE DRAINAGE PROJECT; AND

(II) MAIL A NOTICE TO:

1. EACH LANDOWNER;

2. THE COUNTY COMMISSIONERS OR COUNTY COUNCIL; AND

3. THE STATE SOIL CONSERVATION COMMITTEE IN THE DEPARTMENT OF AGRICULTURE.

(2) THE NOTICE SHALL STATE THE TIME, PLACE, AND PURPOSE OF THE MEETING.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 25, § 63.

In subsection (b)(1)(i) of this section, the reference to "[a]t least 10 days before the meeting … post[ing] a notice of the meeting at four public places in the vicinity of the drainage project" is substituted for the former reference to giving notice "as aforesaid" for clarity.

In subsection (b)(1)(ii) of this section, the former reference to a "written or printed" notice is deleted as unnecessary in light of the reference to a "mailed" notice.

In subsection (b)(2) of this section, the reference to the notice "stat[ing] the time, place, and purpose of the meeting" is substituted for the former reference to giving notice "as aforesaid" for clarity.

Defined terms: "Board of managers" § 26–101
"Landowner" § 26–101

SUBTITLE 4. PLAN.

26–401. DEVELOPMENT.

(A) DUTY OF BOARD OF MANAGERS.

THE BOARD OF MANAGERS SHALL DEVELOP A PLAN FOR AGRICULTURAL DRAINAGE AND SOIL CONSERVATION TO PROMOTE OPTIMAL CROP PRODUCTION BY ESTABLISHING AND MAINTAINING DRAINAGE SYSTEMS THAT PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE.

(B) PLANNING AND ENGINEERING SERVICES.

IN DEVELOPING THE PLAN, THE BOARD OF MANAGERS:

(1) SHALL ENGAGE THE SERVICES OF PRIVATE ENGINEERS; OR

(2) MAY USE THE SERVICES OF PLANNERS AND ENGINEERS OF LOCAL, STATE, AND FEDERAL UNITS OF GOVERNMENT.

(C) RIGHT OF ENTRY.

A MEMBER OR AN AGENT OF THE BOARD OF MANAGERS OR A MEMBER OR AN AGENT OF THE BOARD OF VIEWERS:

(1) MAY ENTER ANY LAND TO MAKE SURVEYS AND EXAMINATIONS FOR DEVELOPING A PLAN; AND

(2) IS LIABLE FOR ACTUAL DAMAGE DONE TO ANY LAND ENTERED DURING A SURVEY OR EXAMINATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 67(a) and the first sentence of (b).

In subsection (a) of this section, the reference to public health, "safety," and welfare is substituted for the former reference to public health, "convenience," and welfare for consistency with other provisions of the Code.

Also in subsection (a) of this section, the former reference to "the watershed or subwatershed area" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to "watershed" drainage systems is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to a "competent and experienced" private engineer is deleted as implicit.

In subsection (b)(2) of this section, the reference to "units of government" is substituted for the former reference to "agencies" for consistency with other revised articles of the Code.

In subsection (c)(1) of this section, the reference to "any land" is substituted for the former reference to "the lands within or without the area" for brevity.

Also in subsection (c)(1) of this section, the reference to "developing a plan" is substituted for the former reference to "accomplish[ing] their purpose" for clarity.

Also in subsection (c)(1) of this section, the former reference to "employees" of the board of managers is deleted as included in the reference to an "agent" of the board of managers.

In subsection (c)(2) of this section, the reference to damage done "to any land entered during a survey or examination" is added for clarity.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101
"State" § 1–101

26–402. CONTENTS.

THE PLAN DEVELOPED UNDER § 26–401 OF THIS SUBTITLE SHALL INCLUDE:

(1) THE LOCATION OF EACH PROPOSED DRAINAGE PROJECT ON A MAP, DRAWING, OR AERIAL PHOTOGRAPH;

(2) A GENERAL DELINEATION OF THE BOUNDARIES OF THE AREA AFFECTED BY THE DRAINAGE ASSOCIATION WITH THE GENERAL LOCATION IN THE COUNTY AFFECTED;

(3) ENGINEERING PLANS IN SUFFICIENT DETAIL TO DESCRIBE THE PROPOSED PROJECT;

(4) A GENERAL DELINEATION OF THE BOUNDARIES OF EACH TRACT OF LAND IN THE AREA AFFECTED BY THE DRAINAGE ASSOCIATION, INCLUDING AN ESTIMATE OF THE ACREAGE OF EACH TRACT; AND

(5) THE TOTAL ESTIMATED CONSTRUCTION COST OF EACH PROPOSED DRAINAGE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 25, § 69(a).

In the introductory language of this section, the reference to the plan "developed under § 26–401 of this subtitle" is added for clarity.

In items (2) and (4) of this section, the references to the "area affected by" the drainage association are added for clarity and consistency within this title.

In item (2) of this section, the former reference to "counties" is deleted in light of the reference to a "county" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in item (3) of this section, the former reference to "projects" is deleted in light of the reference to a "project".

In item (4) of this section, the reference to each "tract of land" is substituted for the former reference to each "affected individual ownership". Similarly, the reference to the acreage of each "tract" is substituted for the former reference to "which each contains".

In item (5) of this section and throughout this subtitle, the references to a "drainage project" are substituted for the former references to "works of improvement" for consistency with similar provisions of the Code.

Defined terms: "County" § 1–101
"Drainage association" § 26–101

26–403. ADOPTION OF PLAN.

(A) MEETING OF LANDOWNERS.

ON COMPLETION OF THE PLAN, OR ON THE ACCEPTANCE OF A PREVIOUSLY COMPLETED PLAN, THE BOARD OF MANAGERS SHALL CALL A MEETING OF THE LANDOWNERS TO VOTE ON THE ADOPTION OF THE PLAN FOR SUBMISSION TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(B) NOTICE.

(1) AT LEAST 10 DAYS BEFORE THE MEETING, THE BOARD OF MANAGERS SHALL:

(I) POST A NOTICE OF THE MEETING IN FOUR PUBLIC PLACES IN THE AREA OR VICINITY OF THE AREA OF THE DRAINAGE ASSOCIATION; AND

(II) MAIL A NOTICE TO EACH LANDOWNER.

(2) THE NOTICE SHALL STATE THE TIME, PLACE, AND PURPOSE OF THE MEETING.

(C) RIGHT TO VOTE.

AT THE MEETING REQUIRED UNDER SUBSECTION (A) OF THIS SECTION:

(1) EACH LANDOWNER IS ENTITLED TO ONE VOTE; AND

(2) ANY LANDOWNER MAY VOTE BY PROXY IF THE PROXY IS DATED, SIGNED BY THE INDIVIDUAL ENTITLED TO VOTE, AND WITNESSED BY AT LEAST ONE INDIVIDUAL.

(D) DETERMINATION BY BOARD OF MANAGERS.

(1) THE BOARD OF MANAGERS SHALL DETERMINE WHETHER TO SUBMIT THE PLAN TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL FOR REVIEW AND APPROVAL.

(2) IN MAKING THE DETERMINATION, THE BOARD OF MANAGERS SHALL CONSIDER:

(I) THE VOTE OF EACH LANDOWNER;

(II) THE PROBABLE APPORTIONMENT OF BENEFITS TO EACH LANDOWNER BASED ON ACREAGE;

(III) THE LOCATION OF THE DRAINAGE PROJECT; AND

(IV) THE EXTENT OF THE BENEFITS TO THE VOTER'S LAND BY THE DRAINAGE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 68.

In subsection (b)(1)(i) of this section, the reference to places "in the area or vicinity of the area of the drainage association" is substituted for the former reference to places "within the association or in the vicinity thereof" for clarity and consistency within this title.

In subsection (b)(1)(ii) of this section, the former reference to a "written or printed" notice is deleted as unnecessary in light of the reference to a "mailed" notice.

In the introductory language of subsection (c) of this section, the phrase "[a]t the meeting required under subsection (a) of this section" is substituted for the former phrase "[a]t such meeting" for clarity.

In subsection (c)(2) of this section, the references to an "individual" being entitled to vote or being a witness are substituted for the former references to a "person" being entitled to vote or being a witness since the reference is intended to apply only to human beings and not the other entities included in the definition of "person".

In subsection (d)(2)(i) of this section, the reference to the vote "of each landowner" is added for clarity.

In subsection (d)(2)(ii) of this section, the reference to the benefits "to each landowner" is added for clarity.

In subsection (d)(2)(iii) of this section, the reference to the location "of the drainage project" is added for clarity.

Defined terms: "Board of managers" § 26–101
"Drainage association" § 26–101
"Landowner" § 26–101

26–404. FILING WITH COUNTY.

(A) FILING.

(1) IF THE BOARD OF MANAGERS DECIDES TO SUBMIT THE PLAN TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL, THE BOARD OF MANAGERS SHALL SUBMIT THREE COPIES OF THE PLAN.

(2) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL FORWARD A COPY OF THE PLAN TO THE STATE SOIL CONSERVATION COMMITTEE IN THE DEPARTMENT OF AGRICULTURE.

(B) STATEMENT.

THE BOARD OF MANAGERS SHALL INCLUDE WITH THE SUBMISSION OF THE PLAN A STATEMENT THAT THE BOARD OF MANAGERS HAS DETERMINED THAT THE DRAINAGE PROJECT:

(1) IS FEASIBLE;

(2) WILL BENEFIT THE PUBLIC AND PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE; AND

(3) WILL PRODUCE SUFFICIENT BENEFITS TO WARRANT THE EXPENDITURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 69(b) and the first and second sentences of (a).

In subsection (a)(2) of this section, the reference to the "county commissioners or county council" is added for clarity.

In subsection (b)(2) of this section, the reference to the project "benefit[ting] the public and promot[ing] public health, safety, and welfare" is substituted for the former reference to the project "promot[ing] the public benefit and be[ing] conducive to the public health, safety, and welfare" for consistency with similar terminology in the Code.

Defined term: "Board of managers" § 26–101

SUBTITLE 5. BOARD OF VIEWERS.

26–501. APPOINTMENT.

(A) IN GENERAL.

(1) ON APPROVAL OF A PLAN SUBMITTED IN ACCORDANCE WITH § 26–404 OF THIS TITLE, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT A BOARD OF VIEWERS COMPOSED OF AT LEAST THREE IMPARTIAL INDIVIDUALS WHO RESIDE IN THE VICINITY OF THE AREA OF THE DRAINAGE ASSOCIATION.

(2) A MEMBER OF THE BOARD OF VIEWERS MAY NOT BE A LANDOWNER.

(B) MULTIPLE COUNTIES.

IF A DRAINAGE PROJECT DESCRIBED IN A PLAN IS LOCATED IN MORE THAN ONE COUNTY, AT LEAST ONE MEMBER OF THE BOARD OF VIEWERS SHALL BE FROM EACH COUNTY IN WHICH THE DRAINAGE PROJECT IS LOCATED.

(C) NOTICE OF ACCEPTANCE.

AN INDIVIDUAL WHO IS APPOINTED AS A MEMBER OF A BOARD OF VIEWERS MAY NOT ACT IN THAT CAPACITY UNTIL THE INDIVIDUAL PROVIDES WRITTEN NOTICE OF ACCEPTANCE OF THE APPOINTMENT TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(D) VACANCIES.

(1) IF ANY MEMBER OF THE BOARD OF VIEWERS DIES, MOVES FROM A COUNTY IN WHICH THE AREA OF THE DRAINAGE ASSOCIATION IS LOCATED, OR OTHERWISE IS UNABLE TO ACT, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT A REPLACEMENT AS SOON AS FEASIBLE.

(2) THE APPOINTMENT OF A REPLACEMENT DOES NOT AFFECT THE VALIDITY OF ANY WORK OF THE BOARD OF VIEWERS.

(E) COMPENSATION OF VIEWERS AND ENGINEER.

EACH MEMBER OF A BOARD OF VIEWERS AND THE ENGINEER IS ENTITLED TO RECEIVE COMPENSATION FOR EACH DAY SPENT ON DUTIES AS AGREED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AND THE MEMBERS AND ENGINEER APPOINTED UNDER § 26–503 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, §§ 70 and 101 and the second sentence of § 55.

In subsection (a)(1) of this section, the reference to "individuals" is substituted for the former reference to "citizens" because the meaning of "citizens" in this context is unclear.

Also in subsection (a)(1) of this section, the former reference to the "review" of the plan is deleted as implicit in the reference to the "approval" of the plan.

Also in subsection (a)(1) of this section, the former reference to "judicious" individuals is deleted as unnecessary in light of the reference to "impartial" individuals.

In subsection (b) of this section, the reference to the "board of" viewers is added for consistency with subsections (a) and (c) of this section.

In subsection (c) of this section, the references to an "individual" are substituted for the former references to a "person" since a member of a board of viewers would be a human being and not the other entities included in the definition of "person".

In subsection (d) of this section, the former reference to members "appointed by any order of the county commissioners" is deleted as surplusage.

Also in subsection (d) of this section, the former reference to "counties" is deleted in light of the reference to "county" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (e) of this section, the reference to the engineer "appointed under § 26–503 of this subtitle" is added for clarity.

Also in subsection (e) of this section, the reference to the "members and engineer" is substituted for the former reference to the "parties" for clarity.

Also in subsection (e) of this section, the former reference to the "discharge of" the members' duties is deleted as surplusage.

Defined terms: "Board of viewers" § 26–101
"County" § 1–101
"Drainage association" § 26–101
"Landowner" § 26–101

26–502. NOTICE OF ACTION BY BOARD OF VIEWERS.

AT LEAST 10 DAYS BEFORE PROCEEDING WITH ITS DUTIES, THE BOARD OF VIEWERS SHALL:

(1) POST A NOTICE OF ITS INTENTION TO PROCEED AT FOUR PUBLIC PLACES IN THE AREA DESCRIBED IN THE PETITION;

(2) PUBLISH A NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN EACH COUNTY IN WHICH THE LANDS TO BE VIEWED ARE LOCATED; AND

(3) SEND A COPY OF THE NOTICE TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL, THE SECRETARY OF AGRICULTURE, AND THE STATE SOIL CONSERVATION COMMITTEE IN THE DEPARTMENT OF AGRICULTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 70A.

In the introductory language of this section, the former reference to the "execution" of the duties of the board of viewers is deleted as surplusage.

In item (2) of this section, the reference to "publish[ing] a notice in a newspaper of general circulation published in each county" is substituted for the former reference to "notice inserted in a newspaper or newspapers published in the county or counties" for consistency with other terminology in this article.

Defined terms: "Board of viewers" § 26–101
"County" § 1–101

26–503. DUTIES.

(A) EXAMINATION TO DETERMINE BENEFITS; MAKE SURVEYS.

ON RECEIPT OF A COPY OF THE PLAN FROM THE COUNTY COMMISSIONERS OR COUNTY COUNCIL, A BOARD OF VIEWERS SHALL:

(1) (I) ENGAGE THE SERVICES OF A PRIVATE ENGINEER; OR

(II) USE THE SERVICES OF AN ENGINEER OF A LOCAL, STATE, OR FEDERAL UNIT OF GOVERNMENT;

(2) ENTER AND VIEW, WITH THE INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS SUBSECTION, THE LAND DESCRIBED IN THE PETITION;

(3) MAKE CAREFUL AND THOROUGH EXAMINATION OF THE LAND DESCRIBED IN THE PETITION AND OF OTHER LAND IF NECESSARY TO LOCATE PROPERLY THE PROJECT THAT IS THE SUBJECT OF THE PETITION;

(4) INCLUDE IN THE AREA OF THE PROPOSED DRAINAGE ASSOCIATION ALL LAND THAT WOULD BE BENEFITED AND EXCLUDE ANY LAND DESCRIBED IN THE PETITION THAT IT DETERMINES WOULD NOT BE BENEFITED BY THE PROPOSED IMPROVEMENT;

(5) CONDUCT SURVEYS TO DETERMINE THE BOUNDARIES AND ELEVATIONS OF THE AREA AND TO DEVELOP A PLAN FOR THE PROJECT; AND

(6) LAY OUT ON THE GROUND A PLAINLY AND SUBSTANTIALLY MARKED LINE OF EACH DITCH OR DRAIN OR OTHER IMPROVEMENT THAT IT CONSIDERS NECESSARY.

(B) CONSIDERATION OF DAMAGES.

A BOARD OF VIEWERS SHALL CONSIDER AS DAMAGES, WITHOUT REGARD TO ANY BENEFIT THAT WOULD RESULT FROM THE PROPOSED DRAINAGE PROJECT:

(1) THE VALUE OF LAND TAKEN FOR CONSTRUCTION OF THE PROPOSED DRAINAGE PROJECT;

(2) INCONVENIENCE IMPOSED BY THE CONSTRUCTION OF THE PROPOSED DRAINAGE PROJECT; AND

(3) OTHER LAWFULLY COMPENSABLE DAMAGES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, §§ 71 and 72.

In subsection (a)(1)(i) of this section, the former reference to a "competent and experienced" private engineer is deleted as implicit.

In subsection (a)(1)(ii) of this section, the reference to a "unit of government" is substituted for the former reference to "agency" for consistency with other similar provisions of the Code.

In subsection (a)(2) of this section, the reference to the "individuals described in item (1) of this subsection" is substituted for the former reference to "him" for clarity.

In subsection (a)(3) of this section, the reference to the "land described in the petition" is substituted for the former reference to the "area" for consistency with subsection (a)(2) of this section.

Also in subsection (a)(3) of this section, the reference to the "project" is substituted for the former reference to "improvement or improvements" for consistency with similar provisions of the Code. Similarly, in subsection (a)(5) of this section, the reference to the "project" is substituted for the former reference to the "necessary improvements".

In subsection (a)(5) of this section, the former reference to the "several parts" of the area is deleted as surplusage.

In the introductory language of subsection (b) of this section, the reference to considering damages "without regard to" any benefit is substituted for the former reference to considering damages "separate and apart from" any benefit for brevity.

In subsection (b)(1) of this section, the reference to considering as damages "the value of" land taken is added for clarity.

In subsection (b)(2) of this section, the conjunction "and" is substituted for the conjunction "or" to clarify that each item listed is to be considered.

In subsection (b)(3) of this section, the reference to "lawfully compensable damages" is substituted for the former reference to "legal damages sustained" for clarity.

Defined terms: "Board of viewers" § 26–101
"Drainage association" § 26–101
"State" § 1–101

26–504. COSTS.

(A) ASSESSMENTS.

A BOARD OF VIEWERS:

(1) SHALL DETERMINE THE AMOUNT SUFFICIENT TO PAY:

(I) THE COST OF CONSTRUCTING OR IMPROVING A PROPOSED DRAINAGE PROJECT;

(II) ANY DAMAGES AWARDED;

(III) ANY COMPENSATION FOR AN EXISTING DRAINAGE PROJECT THAT THE BOARD OF VIEWERS ADOPTS IN ACCORDANCE WITH § 26–505 OF THIS SUBTITLE;

(IV) THE EXPENSES OF THE BOARD OF VIEWERS; AND

(V) THE COSTS OF ESTABLISHING THE DRAINAGE ASSOCIATION;

(2) SHALL SUBTRACT FROM THE AMOUNT DETERMINED UNDER ITEM (1) OF THIS SUBSECTION ANY AMOUNTS RECEIVED FROM THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OR ANY OTHER SOURCE; AND

(3) SHALL ASSESS EACH LANDOWNER, INCLUDING THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, THAT WILL DERIVE A BENEFIT FROM THE PROPOSED DRAINAGE PROJECT A PROPORTION OF THE AMOUNT DESCRIBED IN ITEM (2) OF THIS SUBSECTION, BASED ON THE BENEFITS THAT WOULD ACCRUE TO THE TRACT OF LAND FROM THE DRAINAGE PROJECT.

(B) CONTRIBUTION BY COUNTY.

NOTWITHSTANDING ANY OTHER LAW, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY:

(1) CONTRIBUTE TOWARD THE COSTS OF A DRAINAGE PROJECT AUTHORIZED UNDER THIS TITLE FROM GENERAL FUNDS OF THE COUNTY; OR

(2) ALLOCATE TOWARD THE COSTS OF ANY DRAINAGE PROJECT ANY OTHER MONEY THAT IS AVAILABLE FOR THE DRAINAGE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 73 and the second and fourth sentences of § 74.

In subsection (a)(1) of this section, the reference to a board of viewers "determin[ing]" an amount is added for clarity.

In subsection (a)(1)(i) of this section, the reference to a "proposed" drainage project is substituted for the former reference to "such ditches or drains or other drainage works" for consistency within this title.

In subsection (a)(1)(iii) of this section, the reference to "an existing drainage project that the board of viewers adopts in accordance with § 26–505 of this subtitle" is substituted for the former reference to "adopted improvements previously constructed" for clarity.

In subsection (a)(3) of this section, the reference to assessing each tract of land "a proportion of the amount … based on the benefits that would accrue to the tract of land from the drainage project" is substituted for the former reference to assessing "against such persons respectively a sum proportional to the benefits accruing to their lands" for clarity.

Also in subsection (a)(3) of this section, the former reference to the requirement that the board of watershed viewers "adjudge thereof" is deleted as unnecessary in light of the requirement that the board "assess" an amount for each tract of land.

Also in subsection (a)(3) of this section, the reference to the "amount described in item (2) of this subsection" is substituted for the former reference to the "cost and expense of making the same" for clarity.

In subsection (b) of this section, the references to a "drainage project" are substituted for the former references to an "improvement" and "improvements" for consistency with similar provisions of the Code.

Defined terms: "Board of viewers" § 26–101
"County" § 1–101
"Drainage association" § 26–101
"Landowner" § 26–101
"State" § 1–101

26–505. EXISTING DRAINAGE PROJECTS.

(A) ADOPTION.

A BOARD OF VIEWERS MAY ADOPT AN EXISTING DRAINAGE PROJECT AS A WHOLE DRAINAGE PROJECT OR AS A PART OF A DRAINAGE PROJECT, UNDER THIS TITLE.

(B) COMPENSATION FOR PROJECT.

IF AN EXISTING DRAINAGE PROJECT IS ADOPTED BY THE BOARD OF VIEWERS, IT SHALL PAY FAIR COMPENSATION TO EACH LANDOWNER FOR THE VALUE OF WORK ALREADY DONE ON THE DRAINAGE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and third sentences of former Art. 25, § 74.

In subsection (a) of this section and throughout this title, the references to an "existing" drainage project are substituted for the former references to a drainage project "already constructed" and "previously constructed" for clarity.

Also in subsection (a) of this section, the reference to "drainage project[s]" is substituted for the former reference to "drainage improvements" for consistency with similar provisions of the Code.

In subsection (b) of this section, the phrase "[i]f an existing drainage project is adopted by the board of viewers," is added for clarity.

Also in subsection (b) of this section, the reference to "pay[ing]" fair compensation is substituted for the former reference to "allow[ing]" fair compensation for clarity.

Defined terms: "Board of viewers" § 26–101
"Landowner" § 26–101

26–506. SUBSEQUENT BOARD OF VIEWERS.

(A) APPOINTMENT ON REQUEST OF BOARD OF MANAGERS.

AT THE REQUEST OF THE BOARD OF MANAGERS, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT A BOARD OF VIEWERS TO DETERMINE IF THE ORIGINAL DETERMINATION AS TO WHICH LANDS HAVE BENEFITED FROM THE IMPROVEMENTS HAS CHANGED.

(B) QUALIFICATIONS; POWERS; DUTIES.

THE BOARD OF VIEWERS APPOINTED UNDER THIS SECTION SHALL HAVE THE SAME QUALIFICATIONS, RIGHTS, POWERS, PRIVILEGES, AND DUTIES AS THE ORIGINAL BOARD OF VIEWERS.

(C) REPORT.

(1) THE BOARD OF VIEWERS SHALL REPORT ITS FINDINGS TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(2) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL CONSIDER THE REPORT IN THE SAME MANNER AS THE ORIGINAL REPORT, AND THE REPORT SHALL BE SUBJECT TO A PUBLIC HEARING AND THE RIGHT TO JUDICIAL REVIEW AS PROVIDED UNDER § 26–513 OF THIS SUBTITLE.

(D) ASSESSMENTS.

ANY REVISION IN THE ORIGINAL DETERMINATION AS TO WHICH LANDS BENEFIT FROM THE DRAINAGE PROJECT SHALL BECOME THE BASIS FOR ALL FUTURE ASSESSMENTS FOR PAYING FOR THE DRAINAGE PROJECT, INCLUDING RELATED EXPENSES SUCH AS DAMAGES AND THE MAINTENANCE OF THE DRAINAGE PROJECT.

(E) CLASSIFICATION OF LAND.

NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION, THE BOARD OF MANAGERS, AT ANY TIME AFTER THE CREATION OF A DRAINAGE ASSOCIATION, MAY DETERMINE WHICH LAND IN THE ASSOCIATION IS CLASSIFIED AS WOODLAND, CROPLAND, COMMERCIAL, INDUSTRIAL, OR RESIDENTIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 82.

In subsection (b) of this section, the reference to the board of viewers "appointed under this section" is added for clarity.

In subsection (c)(2) of this section, the reference to judicial review "as provided under § 26–513 of this subtitle" is added for clarity.

Also in subsection (c)(2) of this section, the reference to "the county commissioners or county council" is added for clarity.

In subsection (d) of this section, the former reference to lands "both public and private" is deleted as surplusage.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101
"Drainage association" § 26–101

26–507. REPORT TO STATE AND COUNTY.

(A) REPORT REQUIRED.

AT THE EARLIEST FEASIBLE DATE, THE BOARD OF VIEWERS SHALL SUBMIT THREE COPIES OF A WRITTEN REPORT TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AND TO THE STATE SOIL CONSERVATION COMMITTEE IN THE DEPARTMENT OF AGRICULTURE.

(B) CONTENTS.

THE REPORT SHALL STATE:

(1) WHETHER THE PROPOSED DRAINAGE PROJECT:

(I) IS FEASIBLE;

(II) WILL BENEFIT THE PUBLIC OR PROMOTE THE PUBLIC HEALTH, SAFETY, OR WELFARE; AND

(III) WILL BENEFIT THE LAND TO BE AFFECTED BY THE DRAINAGE PROJECT SUFFICIENTLY TO WARRANT THE PROBABLE EXPENDITURE;

(2) THE NAME OF EACH PERSON ENTITLED TO DAMAGES AND THE AMOUNT OF THE DAMAGES;

(3) THE NAME OF EACH PERSON ENTITLED TO COMPENSATION FOR A DRAINAGE PROJECT ADOPTED UNDER § 26–505 OF THIS SUBTITLE AND THE AMOUNT OF THE COMPENSATION;

(4) THE AMOUNT DETERMINED UNDER § 26–504(A)(1) OF THIS SUBTITLE; AND

(5) THE AMOUNT FOR WHICH EACH LANDOWNER SHALL BE ASSESSED AS A SHARE OF THE TOTAL COST OF THE DRAINAGE PROJECT AND ITS PROPORTION OF THE WHOLE.

(C) MAPS AND PROFILES.

THE BOARD OF VIEWERS SHALL FILE WITH THE REPORT THREE COPIES OF MAPS AND PROFILES THAT SHOW:

(1) THE LOCATION OF THE PROPOSED DRAINAGE PROJECT ON A MAP, DRAWING, OR AERIAL PHOTOGRAPH TO A SUITABLE SCALE;

(2) A GENERAL DELINEATION OF THE BOUNDARY OF THE AREA AFFECTED, WITH THE GENERAL LOCATION IN THE COUNTY INDICATED;

(3) A GENERAL DELINEATION OF THE BOUNDARIES OF EACH LANDOWNER'S TRACT, WITH AN ESTIMATE OF THE ACREAGE THAT EACH TRACT CONTAINS; AND

(4) THE DIMENSIONS AND PROFILES OF THE PROPOSED DRAINAGE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 82A.

In subsection (a) of this section, the reference to the requirement that the board of viewers "submit" a report is substituted for the former reference to the requirement that the board "make out and return" a report for brevity.

In subsection (b)(1)(ii) of this section, the reference to the project "benefit[ting] the public or promot[ing] the public health, safety, or welfare" is substituted for the former reference to the project "promot[ing] the public benefit or utility, or the public health, convenience or welfare" for consistency with similar provisions of the Code.

In subsections (b)(3) and (c)(4) of this section, the references to a "drainage project" are substituted for the former references to "improvements" for consistency with similar provisions of the Code.

In subsection (b)(3) of this section, the reference to a project "adopted under § 26–505 of this subtitle" is substituted for the former reference to a project "previously constructed" for clarity.

In subsection (b)(4) of this section, the reference to the "amount determined under § 26–504(a)(1) of this subtitle" is substituted for the former reference to the "total estimated cost of improvements, including damages, compensations, and organization expenses" for brevity and clarity.

Defined terms: "Board of viewers" § 26–101
"Landowner" § 26–101
"Person" § 1–101

26–508. EXAMINATION OF REPORT; HEARING; NOTICE; REPORT AVAILABLE FOR INSPECTION.

(A) EXAMINATION.

(1) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL EXAMINE A REPORT SUBMITTED BY A BOARD OF VIEWERS UNDER § 26–507 OF THIS SUBTITLE AT THE FIRST MEETING AFTER RECEIVING THE REPORT.

(2) IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL FIND THAT A REPORT UNDER § 26–507 OF THIS SUBTITLE IS NOT IN PROPER FORM OR NOT IN COMPLIANCE WITH THE LAW, THE REPORT SHALL BE RETURNED TO THE BOARD OF VIEWERS TO BE CORRECTED AND RESUBMITTED.

(3) IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL FIND THAT A REPORT UNDER § 26–507 OF THIS SUBTITLE IS IN PROPER FORM AND IN COMPLIANCE WITH THE LAW, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL SET A DATE FOR A PUBLIC HEARING ON THE REPORT.

(B) NOTICE.

(1) AT LEAST 30 DAYS BEFORE A HEARING UNDER THIS SECTION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(I) PUBLISH NOTICE OF THE TIME AND PLACE OF THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE LAND AFFECTED IS LOCATED; AND

(II) MAIL A NOTICE TO EACH PERSON NAMED IN THE REPORT.

(2) NOTICE OF THE HEARING SHALL STATE THAT A COPY OF THE REPORT IS AVAILABLE FOR INSPECTION IN AN OFFICE OF THE DESIGNATED OFFICER.

(C) REPORT AVAILABLE FOR INSPECTION.

A COPY OF THE REPORT OF THE BOARD OF VIEWERS SHALL BE:

(1) AVAILABLE FOR INSPECTION IN AN OFFICE OF THE DESIGNATED OFFICER; AND

(2) SENT TO THE SECRETARY OF AGRICULTURE AND THE STATE SOIL CONSERVATION COMMITTEE IN THE DEPARTMENT OF AGRICULTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 84.

In subsection (a)(2) of this section, the reference to a report "not in proper form or not in compliance with the law" is substituted for the former reference to a report "not to be in due form and in accordance with the law" for clarity. Similarly, in subsection (a)(3) of this section, the reference to a report in "proper form and in compliance with the law" is substituted for the former reference to a report "in due form and in accordance with the law".

Also in subsection (a)(2) of this section, the reference to the report being "returned" is substituted for the former reference to the report being "referred back" for clarity.

Also in subsection (a)(2) of this section, the reference to the report being "resubmitted" is substituted for the former reference to the report being "returned to the county commissioners at a subsequent meeting" for brevity.

In subsection (b)(1)(i) of this section, the former reference to "newspapers" is deleted in light of the reference to "newspaper" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in subsection (b)(1)(i) of this section, the former reference to "counties" is deleted in light of the reference to "county".

In subsection (b)(1)(ii) of this section, the former reference to a "written or printed" notice is deleted as implicit in the reference to a "mail[ed]" notice.

In subsection (b)(2) of this section, the reference to the requirement that the notice "state that a copy of the report is available for inspection in the office of the designated officer" is substituted for the former reference to the requirement that the notices "so state" for clarity.

In subsection (c) of this section, the reference to a copy of the report being "available for" inspection is substituted for the former references to a copy of the report being "on file …, and shall be open to" the inspection for brevity.

Also in subsection (c) of this section, the former phrase "[d]uring this time" is deleted as surplusage.

Also in subsection (c) of this section, the former reference to inspection "of any landowner or other person interested" is deleted as surplusage.

Defined terms: "Board of viewers" § 26–101
"County" § 1–101
"Designated officer" § 26–101

"Person" § 1–101

26–509. HEARING PROCEDURE ON REPORT.

(A) PARTICIPANTS.

AT A HEARING UNDER § 26–508 OF THIS SUBTITLE:

(1) THE BOARD OF VIEWERS AND ENGINEERS SHALL BE PRESENT; AND

(2) ANY PERSON MAY APPEAR IN PERSON OR BY COUNSEL AND OBJECT TO ANY PART OF THE REPORT.

(B) CONSIDERATION BY COUNTY.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL CONSIDER CAREFULLY EACH OBJECTION PRESENTED UNDER SUBSECTION (A) OF THIS SECTION.

(C) CHANGE IN REPORT.

IF POSSIBLE AT THE HEARING, THE BOARD OF VIEWERS MAY MAKE CHANGES TO THE REPORT NECESSARY TO TREAT EACH CONCERNED PERSON EQUITABLY.

(D) ACTION ON REPORT.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY:

(1) DISAPPROVE THE REPORT;

(2) RETURN THE REPORT TO THE BOARD OF VIEWERS FOR AMENDMENT OR RECONSIDERATION IN VIEW OF AN OBJECTION PRESENTED; OR

(3) APPROVE THE REPORT AS SUBMITTED OR AS AMENDED.

(E) POWERS OF BOARD OF MANAGERS ON APPROVAL OF REPORT.

ON APPROVAL OF THE REPORT BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL, THE BOARD OF MANAGERS MAY INSTALL, OPERATE, AND MAINTAIN THE DRAINAGE PROJECT DESCRIBED IN THE REPORT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 85.

In subsections (a)(1) and (c) of this section, the references to the "board of viewers" are substituted for the former references to "viewers" for consistency with § 26–501 of this subtitle. Similarly, in subsection (d)(2) of this section, the reference to the "board of viewers" is substituted for the former reference to "drainage viewers".

In subsection (a)(1) of this section, the clause "the board of viewers and engineers shall be present" is substituted for the former clause "the viewers and the engineers being present" to make explicit that which was previously implied, that the board of viewers and engineers are required to be present at the hearing.

In subsection (a)(2) of this section, the former reference to a person interested "in the matter" is deleted as surplusage.

In subsection (c) of this section, the reference to changes necessary to "treat each concerned person equitably" is substituted for the former reference to changes necessary to "render substantial and equal justice to all persons concerned" for brevity.

In subsection (d)(2) of this section, the reference to "return[ing]" the report is substituted for the former reference to the report being "refer[red] back" for clarity.

In subsection (e) of this section, the former reference to the report of "drainage viewers" is deleted as surplusage.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101
"Person" § 1–101

26–510. PAYMENT OF EXPENSES IF REPORT DISAPPROVED.

(A) PAYMENT BY COUNTY.

IF A REPORT IS DISAPPROVED, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL PAY THE EXPENSES PROPERLY INCURRED IN MAKING THE SURVEY AND REPORT AND IN PUBLISHING NOTICES.

(B) IMPOSITION OF SPECIAL ASSESSMENT ON PETITIONERS.

TO REIMBURSE THE COUNTY FOR THE EXPENSES DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE COUNTY COMMISSIONERS OR COUNTY

COUNCIL MAY IMPOSE A SPECIAL ASSESSMENT IN EQUAL AMOUNTS ON THE PROPERTY OF THE LANDOWNERS WHO SIGNED THE PETITION FILED UNDER SUBTITLE 2 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 81.

In subsection (b) of this section, the reference to a petition "filed under Subtitle 2 of this title" is added for clarity.

Also in subsection (b) of this section, the reference to "reimburs[ing] the county for the expenses described in subsection (a) of this section" is substituted for the former reference to "the proceeds of such tax to be used to reimburse the board of county commissioners for the said payment of the said expenses" for brevity.

Also in subsection (b) of this section, the reference to "special assessment" is substituted for the former reference to "tax" for consistency with Subtitle 8 of this title.

Defined terms: "County" § 1–101
"Landowner" § 26–101

26–511. AMENDMENT OF PETITION OR RELATED PROCEEDINGS.

(A) IN GENERAL.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OR CIRCUIT COURT FOR THE COUNTY IN WHICH PROCEEDINGS ARE PENDING MAY, ON APPLICATION OF ANY PARTY AND AT ANY TIME BEFORE A FINAL DECISION IS MADE, GRANT LEAVE TO THE PARTY TO AMEND THE PETITION OR ANY PART OF THE PROCEEDINGS THAT MAY BE DEFECTIVE OR INFORMAL TO BRING THE MERITS OF THE CASE BEFORE THE COUNTY COMMISSIONERS OR COUNTY COUNCIL FOR A DECISION OR BEFORE A JURY OF THE CIRCUIT COURT FOR TRIAL.

(B) COSTS.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OR CIRCUIT COURT FOR THE COUNTY MAY AWARD COSTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 78.

In subsection (a) of this section, the reference to bringing the merits of the case before the county commissioners or county council "for a

decision" is added for clarity to distinguish the action of the county commissioners or county council and the jury of the circuit court.

In subsection (b) of this section, the former reference to awarding costs "in their discretion, according to the right of the matter" is deleted as surplusage.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the intention of former Art. 25, § 197, in connection with authority to amend "any part of the proceedings … so as to bring the merits of the case before … [a] jury of the circuit court for trial" is unclear. To the extent the intent is to allow a de novo appeal to the circuit court with a right to a jury trial, this would contradict case law that has held that a statute that provides for a de novo trial with the right of electing to have a jury is void as being unconstitutional. *See* Department of Natural Resources v. Linchester Sand & Gravel Corp., 274 Md. 211 (1974).

Defined term: "County" § 1–101

26–512. APPLICATION FOR ORDER OF REVIEW.

(A) IN GENERAL.

A PERSON WHO MAY BE ADVERSELY AFFECTED BY THE MAKING OF ANY DITCH OR DRAIN OR WHO MAY BE ASSESSED FOR ANY PART OF THE COSTS OF A DITCH OR DRAIN MAY APPLY FOR AN ORDER OF REVIEW TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AT ANY TIME BEFORE THE APPROVAL OF THE REPORT.

(B) APPOINTMENT OF VIEWERS TO REVIEW REPORT.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY GRANT AN ORDER OF REVIEW AND APPOINT ANOTHER BOARD OF VIEWERS TO REDO THE WORK DONE BY THE ORIGINAL BOARD OF VIEWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 79.

In subsection (a) of this section, the reference to "adversely affected" is substituted for the former reference to "injured" to conform to modern usage.

Also in subsection (a) of this section, the reference to the costs "of a ditch or drain" is substituted for the former reference to the costs "thereof" for clarity.

Also in subsection (a) of this section, the former reference to a ditch or drain "laid out as aforesaid" is deleted as surplusage.

In subsection (b) of this section, the reference to "an order of review" is substituted for the former reference to "such order" for clarity.

Also in subsection (b) of this section, the reference to "another board of viewers … redo[ing] the work done" is substituted for the former reference to "other drainage viewers … perform[ing] the same duty" for clarity.

Defined terms: "Board of viewers" § 26–101
"Person" § 1–101

26–513. JUDICIAL REVIEW.

(A) IN GENERAL.

A PERSON WHO IS AGGRIEVED BY A DETERMINATION OF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OR BY ANY PROCEEDINGS UNDER THIS TITLE RELATING TO DRAINS MAY APPEAL TO THE CIRCUIT COURT OF THE COUNTY IN WHICH THE DETERMINATION WAS MADE OR PROCEEDINGS WERE CONDUCTED.

(B) OPTION FOR TRIAL BY JURY.

EITHER PARTY MAY ELECT A TRIAL BY JURY AND THE JUDGMENT IN THE TRIAL SHALL BE FINAL BETWEEN THE PARTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 80.

In subsection (b) of this section, the reference to the judgment "in the trial" is substituted for the former reference to the judgment "rendered thereupon" for clarity.

Also in subsection (b) of this section, the former reference to the parties "thereto" is deleted as surplusage.

Defined terms: "County" § 1–101
"Person" § 1–101

SUBTITLE 6. RIGHTS–OF–WAY, EASEMENTS, AND CONDEMNATION.

26–601. RIGHTS–OF–WAY AND EASEMENTS GENERALLY.

(A) POWER TO ACQUIRE.

THE BOARD OF MANAGERS MAY ACQUIRE ANY RIGHT–OF–WAY AND EASEMENT NECESSARY TO CONSTRUCT AND MAINTAIN THE DRAINAGE PROJECTS OR DISPOSE OF EXCAVATED MATERIAL ACCORDING TO AN APPROVED OPERATION AND MAINTENANCE PLAN.

(B) EASEMENT RECORD.

(1) THE BOARD OF MANAGERS OF EACH DRAINAGE ASSOCIATION SHALL SUBMIT TO THE CLERK OF THE CIRCUIT COURT IN THE APPROPRIATE COUNTY A BOOK, TO BE KNOWN AS THE "EASEMENT RECORD", THAT CONTAINS EACH EASEMENT FOR MAINTENANCE OR RIGHT–OF–WAY, ACCORDING TO THE ORIGINAL DESIGN SPECIFICATIONS OR FOR NOT LESS THAN 20 FEET, THAT THE DRAINAGE ASSOCIATION HAS IN THE COUNTY.

(2) A DRAINAGE ASSOCIATION SHALL KEEP THE EASEMENT RECORD CURRENT.

(3) THE CLERK OF A CIRCUIT COURT SHALL MAKE AN EASEMENT RECORD AVAILABLE FOR INSPECTION BY THE PUBLIC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 88.

In subsection (a) of this section, the reference to "acquir[ing]" rights–of–way and easements is substituted for the former reference to "hav[ing] and possess[ing]" rights–of–way and easements to avoid the implication that property in trust need not be acquired before use.

Also in subsection (a) of this section, the former phrase "by virtue of this subtitle" is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to a "suitable" book is deleted as surplusage.

Also in subsection (b)(1) of this section, the former reference to easements "on any land" in the county is deleted as surplusage.

In subsection (b)(2) of this section, the former reference to the requirement that a watershed association keep the easement record "up to date" is deleted as unnecessary in light of the requirement that the easement record be kept "current".

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Drainage association" § 26–101

26–602. CONDEMNATION PROCEEDINGS.

IF A LANDOWNER REFUSES TO ACCEPT THE DAMAGES AWARDED TO THE LANDOWNER BY THE BOARD OF VIEWERS AND APPROVED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AND REFUSES THE NECESSARY ACCESS TO THE LANDOWNER'S LAND, THE BOARD OF MANAGERS MAY BEGIN CONDEMNATION PROCEEDINGS UNDER TITLE 12 OF THE REAL PROPERTY ARTICLE TO ACQUIRE A RIGHT–OF–WAY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 86.

The former reference to the requirement that "the damages awarded as compensation … be paid by the board of managers in lieu of the damages awarded by the drainage viewers" is deleted as unnecessary in light of the reference to Title 12 of the Real Property Article.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101
"Landowner" § 26–101

SUBTITLE 7. IMPLEMENTATION OF PLAN.

26–701. POWERS AND DUTIES OF MANAGERS.

(A) IN GENERAL.

THE BOARD OF MANAGERS SHALL IMPLEMENT THE DRAINAGE PROJECT.

(B) SPECIFIC AUTHORITY.

THE BOARD OF MANAGERS MAY:

(1) HIRE EMPLOYEES;

(2) BUY, HIRE, OR RENT MACHINES, AND BUY EXPLOSIVES;

(3) AWARD CONTRACTS;

(4) ENTER INTO AN AGREEMENT WITH ANY COUNTY, STATE, OR FEDERAL UNIT OF GOVERNMENT; AND

(5) DO OTHER ACTS AS NECESSARY, INCLUDING BORROWING MONEY, IN THE NAME OF THE BOARD OF MANAGERS, IF THE BORROWING IS APPROVED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(C) PAYMENTS OF DRAINAGE ASSOCIATION.

THE COUNTY TAX COLLECTOR SHALL MAKE PAYMENT ON BEHALF OF THE DRAINAGE ASSOCIATION AS DIRECTED BY THE BOARD OF MANAGERS.

(D) ACCOUNTING AND REPORTING.

THE BOARD OF MANAGERS SHALL:

(1) KEEP A REGULAR ACCOUNT OF ITS INCOME AND EXPENSES; AND

(2) REPORT ITS INCOME AND EXPENSES TO THE ANNUAL MEETINGS OF THE DRAINAGE ASSOCIATION AND MEETINGS OF THE LANDOWNERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 92.

In subsection (a) of this section, the reference to the drainage "project" is substituted for the former reference to drainage "improvements" for consistency within this title.

Also in subsection (a) of this section, the former reference to the "plan of" drainage projects is deleted as surplusage.

In the introductory language of subsection (b) of this section, the former phrase "in exercising the authority herein conferred" is deleted as surplusage.

In subsection (b)(1) of this section, the reference to "hir[ing] employees" is substituted for the former reference to "employ[ing] supervisors, ditchers and laborers" to use more modern terminology.

In subsection (b)(2) of this section, the former references to "dredges" and "excavators" are deleted as included in the reference to "machines".

In subsection (b)(3) of this section, the former reference to contracts for "all or part of the work" is deleted as surplusage.

In subsection (b)(4) of this section, the reference to any county, State, or federal "unit of government" is substituted for the former reference to county, State, or federal "agencies" for consistency with similar provisions of the Code.

In subsection (b)(5) of this section, the former reference to borrowing money "by promissory notes" is deleted as surplusage.

Also in subsection (b)(5) of this section, the former reference to the county commissioners "of the applicable county" is deleted as surplusage.

Also in subsection (b)(5) of this section, the former reference to borrowing money "from banks or other persons" is deleted as unnecessary because it is inclusive of all sources of borrowing money.

In subsection (c) of this section, the reference to a payment "on behalf of the drainage association" is added for clarity.

In subsection (d)(1) of this section, the reference to "income and expenses" is substituted for the former reference to "expenditures" to use more modern terminology.

In subsection (d)(2) of this section, the reference to the annual meetings of the "landowners" is substituted for the former reference to the annual meetings of the "taxables" for consistency within this title and to reflect that only the landowners pay a special assessment under this title.

Also in subsection (d)(2) of this section, the reference to "income and expenses" is substituted for the former reference to "the same" for clarity.

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Drainage association" § 26–101
"Landowner" § 26–101
"Tax collector" § 1–101

26–702. MAINTENANCE AND OPERATION OF DRAINAGE PROJECTS.

(A) IN GENERAL.

THE BOARD OF MANAGERS SHALL CONTROL AND SUPERVISE EACH DRAINAGE PROJECT UNDER THIS TITLE.

(B) DUTY TO KEEP IN GOOD REPAIR.

THE BOARD OF MANAGERS SHALL KEEP EACH DRAINAGE PROJECT IN GOOD REPAIR IN ACCORDANCE WITH AN APPROVED OPERATION AND MAINTENANCE PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 96(a).

Throughout this section, the references to each drainage "project" are substituted for the former references to drainage "improvements" for consistency within this title.

Defined term: "Board of managers" § 26–101

SUBTITLE 8. FINANCING.

26–801. IMPOSITION OF SPECIAL ASSESSMENTS ON BENEFITED LANDS.

(A) IN GENERAL.

A SPECIAL ASSESSMENT IMPOSED UNDER THIS TITLE SHALL BE IMPOSED ON THE LANDS BENEFITED BY A DRAINAGE PROJECT.

(B) DIVISION OF ASSESSMENT IF PROPERTY IS DIVIDED.

IF A TRACT OF LAND SUBJECT TO A SPECIAL ASSESSMENT UNDER THIS TITLE IS DIVIDED, THE BOARD OF MANAGERS SHALL DETERMINE THE RATIO IN WHICH ANY LATER SPECIAL ASSESSMENT IS TO BE IMPOSED ON EACH SUBDIVIDED TRACT OF LAND BASED ON THE PROPORTION OF THE BENEFIT TO EACH TRACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 94.

In this section and throughout this subtitle, the references to a "special assessment" are substituted for the former references to a "tax levied", "taxation", and "tax[es]" to more accurately describe the nature of the charge.

In this section and throughout this subtitle, the references to a special assessment "imposed" are substituted for the former references to a special assessment "levied" for consistency with other revised articles of the Code.

In subsection (a) of this section, the reference to lands benefited "by a drainage project" is added for clarity.

In subsection (b) of this section, the reference to a "tract of land" is substituted for the former reference to a "piece of property" for consistency within this title.

Also in subsection (b) of this section, the reference to "each subdivided tract of land" is substituted for the former reference to the "several holdings" for consistency within this title.

Also in subsection (b) of this section, the former reference to the requirement that the tax "be divided between" the tracts of land is deleted as included in the reference to the requirement that the tax be imposed "based on the proportion of the benefit".

Defined term: "Board of managers" § 26–101

26–802. IMPLEMENTATION OF PLAN.

(A) AMOUNT.

THE BOARD OF MANAGERS SHALL DETERMINE THE AMOUNT OF MONEY TO BE RAISED TO IMPLEMENT AN APPROVED DRAINAGE PROJECT.

(B) PREPARATION OF ASSESSMENT LIST.

THE BOARD OF MANAGERS SHALL PREPARE AN ASSESSMENT LIST THAT SHOWS THE AMOUNT DUE FROM EACH LANDOWNER SUBJECT TO THE SPECIAL ASSESSMENT.

(C) PROPORTIONAL IMPOSITION OF SPECIAL ASSESSMENTS.

THE SPECIAL ASSESSMENTS IMPOSED ON EACH TRACT OF LAND SHALL BE PROPORTIONAL TO THE TOTAL ASSESSMENTS.

(D) SIGNATURE AND TRANSMISSION OF ASSESSMENT LIST.

THE ASSESSMENT LIST REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE:

(1) SIGNED BY THE BOARD OF MANAGERS; AND

(2) SENT TO THE DESIGNATED OFFICER.

(E) CERTIFICATION.

(1) THE DESIGNATED OFFICER SHALL CERTIFY THE CONFORMANCE OF THE ASSESSMENT LIST WITH THIS SECTION.

(2) AFTER RECEIVING THE CERTIFICATION OF THE ASSESSMENT LIST, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL CERTIFY THE ASSESSMENT LIST TO THE COUNTY TAX COLLECTOR.

(F) INCLUSION IN TAX BILLS.

(1) THE COUNTY TAX COLLECTOR SHALL INCLUDE THE SPECIAL ASSESSMENTS IMPOSED UNDER THIS SECTION IN THE NEXT BILLS FOR COUNTY TAXES.

(2) THE SPECIAL ASSESSMENTS ARE:

(I) DUE AND COLLECTIBLE AT THE SAME TIME AND IN THE SAME MANNER AS COUNTY TAXES; AND

(II) SUBJECT TO THE SAME INTEREST AND PENALTIES FOR LATE PAYMENT AND NONPAYMENT AS COUNTY TAXES.

(G) SUPPLEMENTAL SPECIAL ASSESSMENT.

IF THE SPECIAL ASSESSMENTS COLLECTED UNDER THIS SECTION ARE INSUFFICIENT TO COMPLETE THE DRAINAGE PROJECT, A SUPPLEMENTAL SPECIAL ASSESSMENT SHALL BE IMPOSED IN THE SAME MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 87.

In this section and throughout this subtitle, the references to an "assessment list" are substituted for the former references to a "tax roll" to accurately reflect the references to "assessments" throughout this subtitle.

In subsections (a) and (g) of this section, the references to the "drainage project" are substituted for the former references to the "plan of drainage improvements" for consistency within this title.

In subsection (a) of this section, the reference to determining "the amount of money to be raised to implement an approved drainage project" is substituted for the former reference to determining "[f]or the purpose of

raising funds necessary to carry out the plan of drainage improvements described in the report of the drainage viewers and confirmed by the county commissioners … the amount to be raised" for brevity.

Also in subsection (a) of this section, the former reference to "which sum may be less than the total assessment" is deleted as implicit.

In subsection (b) of this section, the former reference to the "sum" due from each landowner is deleted as included in the reference to the "amount" due.

Also in subsection (b) of this section, the former reference to being subject to assessment "in the report made out and returned by the drainage viewers and confirmed by the county commissioners" is deleted as implicit.

In subsection (c) of this section, the reference to "special assessments imposed on each tract of land" is substituted for the former reference to "[s]uch drainage taxes" for clarity and consistency.

Also in subsection (c) of this section, the reference to "total" assessments is substituted for the former reference to "respective" assessments for clarity.

In subsection (e)(1) of this section, the reference to the conformance "of the assessment list" is substituted for the former reference to "its" conformance for clarity.

Also in subsection (e)(1) of this section, the former reference to certifying "to the county commissioners" is deleted as unnecessary in light of subsection (e)(2) of this section.

In subsection (e)(2) of this section, the clause "[a]fter receiving the certification of the assessment list" is substituted for the former word "thereupon" for clarity.

In subsection (f)(1) of this section, the former reference to tax bills "sent out from his office" is deleted as surplusage.

Also in subsection (f)(1) of this section, the former reference to "State" tax bills is deleted for consistency with subsection (f)(2) of this section.

In subsection (f)(2)(ii) of this section, the reference to the special assessments being subject to "interest" is added for consistency with § 26–803(g)(4)(ii) of this subtitle.

In subsection (g) of this section, the reference to "special assessments collected under this section" is substituted for the former reference to "funds raised in this manner" for clarity.

Also in subsection (g) of this section, the former reference to special assessments "collected" is deleted as implicit in the authority to impose special assessments.

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Designated officer" § 26–101
"Landowner" § 26–101
"Tax collector" § 1–101

26–803. ISSUANCE OF BONDS OR NOTES.

(A) IN GENERAL.

AS AN ALTERNATIVE TO RAISING FUNDS AS PROVIDED IN § 26–802 OF THIS SUBTITLE, THE BOARD OF MANAGERS MAY ISSUE AND SELL BONDS OR NOTES AS PROVIDED IN THIS SECTION FOR AN AMOUNT NOT EXCEEDING THE TOTAL COST OF THE DRAINAGE PROJECT.

(B) NOTICE OF PROPOSAL.

(1) THE BOARD OF MANAGERS SHALL GIVE NOTICE OF A PROPOSAL TO ISSUE BONDS OR NOTES BY:

(I) PUBLICATION AT LEAST ONCE A WEEK FOR AT LEAST 3 WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH ANY OF THE AREA OF THE DRAINAGE ASSOCIATION IS LOCATED;

(II) POSTING A NOTICE AT THE DOOR OF THE COURTHOUSE IN THE COUNTY IN WHICH ANY OF THE AREA OF THE DRAINAGE ASSOCIATION IS LOCATED; AND

(III) POSTING A NOTICE AT FIVE CONSPICUOUS PLACES IN THE AREA OR VICINITY OF THE AREA OF THE DRAINAGE ASSOCIATION.

(2) THE NOTICE SHALL PROVIDE:

(I) THE PROPOSAL TO ISSUE BONDS OR NOTES TO PAY FOR THE COST OF THE DRAINAGE PROJECT;

(II) THE AMOUNT OF BONDS OR NOTES TO BE ISSUED;

(III) THE INTEREST RATE FOR THE BONDS OR NOTES OR THE METHOD OF DETERMINING THE INTEREST; AND

(IV) THE DATE WHEN THE BONDS OR NOTES ARE PAYABLE.

(C) PAYMENT BY LANDOWNER IN ADVANCE.

(1) WITHIN 15 DAYS AFTER THE PUBLICATION OR POSTING OF THE NOTICE IN SUBSECTION (B) OF THIS SECTION, A LANDOWNER MAY PAY TO THE COUNTY TAX COLLECTOR THE FULL AMOUNT FOR WHICH THE LANDOWNER IS LIABLE, AS PROVIDED IN THE REPORT OF THE BOARD OF VIEWERS.

(2) IF A LANDOWNER PAYS THE FULL AMOUNT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, THE LANDOWNER IS RELIEVED FROM FURTHER LIABILITY FOR THE PARTICULAR DRAINAGE PROJECT.

(3) BEFORE ISSUING ANY BONDS OR NOTES UNDER THIS SECTION, THE BOARD OF MANAGERS SHALL DEDUCT FROM THE ESTIMATED AMOUNT OF BONDS OR NOTES TO BE ISSUED THE AMOUNT PAID IN ADVANCE BY A LANDOWNER AND SHALL ISSUE BONDS OR NOTES ONLY IN THE DECREASED AMOUNT.

(4) ANY AMOUNT PAID IN ADVANCE TO THE COUNTY TAX COLLECTOR SHALL BE HELD IN A SEPARATE FUND TO BE ADDED TO THE PROCEEDS OF THE BONDS OR NOTES ISSUED AND TO BE SPENT TO IMPLEMENT THE PLAN OF DRAINAGE PROJECTS.

(D) CERTIFICATION OF AMOUNT; ASSESSMENT LIST.

THE BOARD OF MANAGERS SHALL:

(1) CERTIFY TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL THE AMOUNT OF BONDS OR NOTES TO BE ISSUED; AND

(2) SUBMIT AN ASSESSMENT LIST OF ALL PROPERTIES FOR WHICH PAYMENTS HAVE NOT BEEN MADE, SHOWING FOR EACH LANDOWNER THE FULL AMOUNT DUE, LESS INTEREST, WITH THE TOTAL AMOUNT FOR ALL LANDOWNERS EQUALING THE CERTIFIED AMOUNT.

(E) ISSUANCE AND SALE OF BONDS OR NOTES.

(1) AFTER THE ASSESSMENT LIST HAS BEEN SUBMITTED AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE BOARD OF MANAGERS SHALL ISSUE BONDS OR NOTES IN THE CERTIFIED AMOUNT.

(2) ALL BONDS OR NOTES ISSUED UNDER THIS SECTION:

(I) SHALL BE SOLD UNDER THE SERIAL MATURITY PLAN;

(II) SHALL HAVE A MATURITY DATE OF 12 YEARS OR LESS FROM THE DATE OF ISSUE;

(III) MAY NOT BE SOLD FOR A PRICE LESS THAN PAR; AND

(IV) MAY BE SOLD AT A PUBLIC OR PRIVATE SALE.

(3) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD OF MANAGERS MAY PROVIDE FOR THE FORM, DATE, INTEREST RATE, AND OTHER DETAILS INCIDENT TO THE OFFERING, SALE, EXECUTION, AND DELIVERY OF THE BONDS.

(4) BONDS ISSUED UNDER THIS SECTION ARE EXEMPT FROM §§ 19–205 AND 19–206 OF THIS ARTICLE.

(F) DISPOSITION OF PROCEEDS.

(1) THE BOARD OF MANAGERS SHALL PAY THE PROCEEDS FROM THE SALE OF BONDS UNDER THIS SECTION TO THE COUNTY TAX COLLECTOR.

(2) THE COUNTY TAX COLLECTOR SHALL:

(I) RETAIN THE PROCEEDS IN A SPECIAL FUND;

(II) DISBURSE THE PROCEEDS ONLY AS AUTHORIZED BY THE BOARD OF MANAGERS TO CARRY OUT THE PLAN OF DRAINAGE PROJECTS; AND

(III) USE ANY SURPLUS TO REDEEM BONDS.

(G) ANNUAL ASSESSMENT FOR PAYMENT OF PRINCIPAL AND INTEREST.

(1) THE BOARD OF MANAGERS SHALL CERTIFY TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AND TO THE COUNTY TAX COLLECTOR THE TOTAL AMOUNT DUE EACH YEAR FOR THE REDEMPTION OF THE BONDS OR

NOTES ISSUED UNDER THIS SECTION, INCLUDING ALL PAYMENTS OF PRINCIPAL AND INTEREST.

(2) EACH YEAR, THE COUNTY TAX COLLECTOR SHALL COMPUTE THE AMOUNT DUE FROM EACH LANDOWNER, BASED ON THE AMOUNTS SHOWN IN THE DRAINAGE ASSESSMENT LIST, SO THAT THE TOTAL AMOUNTS INDIVIDUALLY DUE IN ANY YEAR EQUAL THE AGGREGATE SUM REQUIRED IN THAT YEAR TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS OR NOTES.

(3) THE COUNTY TAX COLLECTOR SHALL INCLUDE IN THE REGULAR TAX BILL FOR EACH TAXABLE YEAR THE AMOUNTS COMPUTED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(4) THE SPECIAL ASSESSMENTS ARE:

(I) DUE AND COLLECTIBLE AT THE SAME TIME AND IN THE SAME MANNER AS COUNTY TAXES; AND

(II) SUBJECT TO THE SAME INTEREST AND PENALTIES FOR LATE PAYMENT OR NONPAYMENT AS COUNTY TAXES.

(H) PAYMENT FOR EXISTING IMPROVEMENTS.

IF THE DRAINAGE WORK PLAN APPROVED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL PROVIDES FOR ADOPTING ANY EXISTING DRAINAGE PROJECT, THE BOARD OF MANAGERS MAY:

(1) PAY THE AMOUNT NECESSARY TO ACQUIRE THE EXISTING DRAINAGE PROJECT FROM THE PROCEEDS OF ANY BONDS OR NOTES ISSUED UNDER THIS SECTION; OR

(2) REIMBURSE A LANDOWNER FROM THE PROCEEDS OF ANY BONDS OR NOTES ISSUED UNDER THIS SECTION FOR ANY AMOUNT SPENT BY THE LANDOWNER IN THE CONSTRUCTION OF THE EXISTING DRAINAGE PROJECT.

(I) REPORT AND DISBURSEMENT OF COLLECTIONS.

(1) THE COUNTY TAX COLLECTOR SHALL REPORT TO THE BOARD OF MANAGERS AT REGULAR INTERVALS ON THE AMOUNT COLLECTED AS SPECIAL ASSESSMENTS DURING EACH INTERVAL, INCLUDING A LIST SHOWING THE AMOUNT RECEIVED FROM EACH LANDOWNER.

(2) THE BOARD OF MANAGERS SHALL ORDER THE AMOUNT COLLECTED AS SPECIAL ASSESSMENTS TO BE PAID BY THE COUNTY TAX COLLECTOR FOR THE PRINCIPAL OF AND INTEREST ON THE BONDS OR NOTES ISSUED.

(J) BONDHOLDER'S RIGHT OF ACTION ON DEFAULT.

(1) IF AN INSTALLMENT OF PRINCIPAL OF OR INTEREST ON THE BONDS OR NOTES ISSUED UNDER THIS SUBTITLE IS NOT PAID AT THE TIME AND IN THE MANNER IT IS DUE AND PAYABLE AND THE DEFAULT CONTINUES FOR A PERIOD OF 6 MONTHS, THE HOLDER OF THE BOND OR NOTE IN DEFAULT SHALL HAVE A RIGHT OF ACTION AGAINST THE BOARD OF MANAGERS.

(2) THE CIRCUIT COURT OF THE COUNTY MAY ISSUE A WRIT OF MANDAMUS AGAINST THE BOARD OF MANAGERS THAT DIRECTS THE IMPOSITION OF A SPECIAL ASSESSMENT AGAINST LANDOWNERS IN DEFAULT IN AN AMOUNT NECESSARY TO MEET UNPAID INSTALLMENTS OF PRINCIPAL AND INTEREST AND THE COSTS OF THE ACTION.

(3) THE BOARD OF MANAGERS SHALL CERTIFY THE AMOUNTS OF THE SPECIAL ASSESSMENT TO THE COUNTY TAX COLLECTOR WHO SHALL PROCEED IMMEDIATELY TO COLLECT THE SPECIAL ASSESSMENT FROM THE LANDOWNERS IN DEFAULT ACCORDING TO THE PROCEDURE PROVIDED IN THIS SUBTITLE.

(4) WHEN THE COUNTY TAX COLLECTOR COLLECTS THE AMOUNTS CERTIFIED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE COUNTY TAX COLLECTOR, ON ORDER OF THE BOARD OF MANAGERS, SHALL PAY THE INSTALLMENTS OF PRINCIPAL AND INTEREST IN DEFAULT AND THE COSTS OF THE ACTION.

(5) THE OFFICIAL BONDS OF THE COUNTY TAX COLLECTOR AND ANY OTHER OFFICERS SHALL BE LIABLE FOR THE FAITHFUL PERFORMANCE OF THE DUTIES ASSIGNED TO THE OFFICERS UNDER THIS SUBTITLE.

(6) THE HOLDER OF ANY BOND OR NOTE IN DEFAULT MAY BRING SUIT AGAINST ANY OFFICER ON THE OFFICIAL BOND OF THE OFFICER FOR FAILING TO PERFORM A DUTY REQUIRED UNDER THIS SECTION.

(K) APPLICABILITY OF TITLE.

THIS TITLE SHALL APPLY TO DRAINAGE PROJECTS COMPLETED UNDER THIS SECTION AS IF COMPLETED WITH FUNDS BY ASSESSMENTS WITHOUT ISSUING BONDS OR NOTES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 90.

Throughout this section, the references to "drainage project" or "drainage projects" are substituted for the former references to "improvement" or "improvements" and "drainage improvements" for consistency within this title.

In subsection (a) of this section, the former reference to a plan for raising funds "necessary to carry out the plan of drainage improvements described in the report of the drainage viewers and confirmed by the county commissioners" is deleted as implicit in the reference to imposing taxes "as provided in § 26–802 of this subtitle".

In subsection (b)(1)(i) of this section, the reference to "any of the area of the drainage association" is substituted for the former reference to the "drainage area or some part thereof" for clarity and consistency within this title.

Also in subsection (b)(1)(i) of this section, the former phrase "if there be such a newspaper" is deleted as surplusage.

In subsection (b)(1)(ii) of this section, the reference to the county "in which any of the area of the drainage association is located" is substituted for the former reference to "such" county for clarity and consistency within this title.

In subsection (b)(1)(iii) of this section, the reference to the places "in the area or vicinity of the area of the drainage association" is substituted for the former reference to the places "in the drainage area" for clarity and consistency within this title.

In subsection (c)(1) of this section, the reference to "the landowner" being liable is substituted for the former reference to "the full amount for which his land is liable" because a landowner makes the payment and is therefore liable, rather than the "land" being liable. Similarly, in subsection (c)(2) of this section, the reference to the "landowner" is substituted for the former reference to "his lands and himself", and in subsection (d)(2) of this section, the former reference to an amount "for which his land" is liable is deleted.

Also in subsection (c)(1) of this section, the reference to the "board" of drainage viewers is added for consistency within this title.

In subsection (c)(3) and (4) of this section, the former references to "amounts" are deleted in light of the references to "amount" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in subsection (e)(3) of this section, the former reference to "rates" is deleted in light of the reference to "rate".

In subsection (c)(3) of this section, the reference to the amount paid in advance "by a landowner" is substituted for the former reference to the amount "so" paid in advance for clarity.

In subsection (d)(2) of this section, the reference to the "certified amount" is substituted for the former reference to the "amount so certified to the county commissioners" for brevity. Similarly, in subsection (e)(1) of this section, the reference to the "certified amount" is substituted for the former reference to the "amount which has been certified to the county commissioners".

Also in subsection (d)(2) of this section, the former phrase "[a]long with such certification" is deleted as surplusage.

In subsection (e)(1) of this section, the phrase "[a]fter the assessment list has been submitted as provided in subsection (d) of this section," is substituted for the former reference to "thereupon" for clarity.

In subsection (e)(3) of this section, the phrase "may provide for" is substituted for the former phrase "shall be within the discretion of" for brevity.

In subsection (f)(1) of this section, the reference to proceeds "from the sale of bonds under this section" is substituted for the former reference to proceeds "therefrom" for clarity.

In subsection (f)(2)(ii) of this section, the reference to disbursing the proceeds "as authorized by the board of managers" to carry out the plan is substituted for the former references to the proceeds being disbursed "only upon warrant of the board of managers" and "be[ing] devoted entirely" to carrying out the plan for brevity.

In subsection (g)(2) of this section, the reference to "pay[ing] the principal of and interest on" the bonds or notes is substituted for the former reference to the "redemption of the bonds or notes and interest" for consistency with similar provisions of this article. Similarly, in subsection (i)(2) of this section, the reference to the "principal of and interest on" is substituted for the former reference to "redemption of the bonds or notes issued and the interest thereon".

Also in subsection (g)(2) of this section, the reference to each "landowner" is substituted for the former reference to each "individual taxable" for clarity and consistency within this title.

In subsection (g)(3) of this section, the reference to the "amounts computed under paragraph (2) of this subsection" is substituted for the former reference to the "sum as so computed" for clarity.

In subsection (g)(4)(ii) of this section, the reference to the taxes being subject to the same interest and penalties "as county taxes" is added for consistency within this subtitle.

In subsection (h) of this section, the reference to "any" of the drainage project is substituted for the former reference to "the whole or as part" of the drainage project for brevity.

Also in subsection (h) of this section, the former reference to "tak[ing] over" the drainage project is deleted as included in the reference to "adopting" a drainage project.

Also in subsection (h) of this section, the former reference to a drainage project "to be provided under this subtitle" is deleted as surplusage.

In subsection (i)(2) of this section, the reference to "the amount collected as special assessments" is substituted for the former reference to "all such moneys" for clarity.

In subsection (j)(1) and (6) of this section, the former references to "holders" and "bonds or notes" are deleted in light of the references to "holder" and "bond or note" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (j)(1) of this section, the reference to an installment of "principal of or interest on the bonds or notes issued under this subtitle" is substituted for the former reference to an installment of "principal and/or interest represented by the said bonds or notes" for clarity and consistency within this section.

In subsection (j)(2) of this section, the former reference to "the collection of" the special assessments is deleted as implicit in the authority to impose special assessments.

In subsection (j)(4) of this section, the former reference to "unpaid" installments is deleted as unnecessary in light of the reference to installments "in default".

In subsection (k) of this section, the former phrase "[e]xcept as provided in this section" is deleted as surplusage.

Also in subsection (k) of this section, the former phrase "in all respects" is deleted as surplusage.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101
"County" § 1–101
"Drainage association" § 26–101
"Landowner" § 26–101
"Tax collector" § 1–101

26–804. ANNUAL SPECIAL ASSESSMENT FOR MAINTENANCE AND OPERATION.

(A) IN GENERAL.

(1) THE BOARD OF MANAGERS MAY IMPOSE A SPECIAL ASSESSMENT ON THE PUBLIC AND PRIVATE BENEFITED LAND FOR MAINTENANCE OF A DRAINAGE PROJECT CONSTRUCTED UNDER THIS TITLE.

(2) IF THE BOARD OF MANAGERS REQUESTS, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY APPOINT A BOARD OF VIEWERS TO EVALUATE CHANGES IN LAND USE MADE AFTER THE ORIGINAL DETERMINATION FOR A DRAINAGE PROJECT.

(3) THE BOARD OF MANAGERS MAY USE THE EVALUATION REPORT AS A BASIS TO IMPOSE A SPECIAL ASSESSMENT FOR MAINTENANCE OF A DRAINAGE PROJECT.

(B) PROCEDURE FOR IMPOSITION AND DISBURSEMENT.

THE SPECIAL ASSESSMENTS UNDER THIS SECTION SHALL BE IMPOSED AND DISBURSED IN THE SAME MANNER AS PROVIDED FOR OTHER SPECIAL ASSESSMENTS UNDER THIS SUBTITLE, EXCEPT THAT THE BOARD OF MANAGERS MAY, AT ANY TIME, DETERMINE WHICH LAND IS CLASSIFIED AS WOODLAND, CROPLAND, COMMERCIAL, INDUSTRIAL, OR RESIDENTIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 96(b) and (c).

In subsection (a)(1) of this section, the reference to the "board of managers" is added to clarify who imposes the annual special assessment.

In subsection (b) of this section, the reference to "special assessments under this section" is substituted for the former reference to "[t]axes for maintenance purposes" for clarity.

Also in subsection (b) of this section, the reference to special assessments "under this subtitle" is substituted for the former reference to "original" taxes for clarity.

Also in subsection (b) of this section, the former reference to special assessments being "collected" is deleted as implicit in the authority to impose special assessments.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101

26–805. DUTIES OF COUNTY TAX COLLECTOR.

(A) DISBURSEMENT.

THE SPECIAL ASSESSMENTS IMPOSED UNDER THIS SUBTITLE SHALL REMAIN IN THE COUNTY TREASURY UNTIL DISBURSED BY THE COUNTY TAX COLLECTOR ON ORDERS SIGNED BY THE BOARD OF MANAGERS.

(B) RETENTION OF PROCEEDS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY TAX COLLECTOR SHALL BE ENTITLED TO RETAIN 3% OF THE DRAINAGE SPECIAL ASSESSMENTS COLLECTED UNDER THIS SUBTITLE AS COMPENSATION.

(2) IN CAROLINE COUNTY, THE COUNTY TAX COLLECTOR SHALL DEPOSIT ALL FEES COLLECTED INTO THE GENERAL FUND OF CAROLINE COUNTY.

(C) RECORDS.

FOR EACH DRAINAGE ASSOCIATION IN THE COUNTY, THE COUNTY TAX COLLECTOR SHALL KEEP A SEPARATE RECORD THAT SHOWS ALL INCOME AND EXPENSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 89.

In subsection (a) of this section, the reference to special assessments imposed "under this subtitle" is substituted for the former reference to taxes imposed "in this manner" for clarity.

Also in subsection (a) of this section, the former reference to special assessments "collected" is deleted as implicit in the authority to impose special assessments.

Also in subsection (a) of this section, the former reference to orders being "drawn" is deleted as surplusage.

In subsection (c) of this section, the reference to "income and expenses" is substituted for the former reference to "receipts and expenditures" to use more modern terminology.

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Drainage association" § 26–101
"Tax collector" § 1–101

26–806. COLLECTION OF SPECIAL ASSESSMENTS IF LAND IN MULTIPLE COUNTIES.

(A) SEPARATE ASSESSMENT LIST.

IF THE LANDS OF THE DRAINAGE ASSOCIATION THAT ARE SUBJECT TO ASSESSMENT ARE LOCATED IN TWO OR MORE COUNTIES, THE BOARD OF MANAGERS SHALL PREPARE A SEPARATE ASSESSMENT LIST FOR EACH COUNTY.

(B) TRANSMITTAL TO DESIGNATED OFFICER.

THE BOARD OF MANAGERS SHALL SEND THE ASSESSMENT LIST FOR EACH COUNTY TO THE DESIGNATED OFFICER FOR THE COUNTY IN WHICH THE DRAINAGE ASSOCIATION WAS ORGANIZED.

(C) PROCEDURE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PROCEDURE TO IMPOSE A SPECIAL ASSESSMENT UNDER THIS SECTION SHALL BE AS PROVIDED UNDER § 26–802 OF THIS SUBTITLE.

(2) (I) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE DRAINAGE ASSOCIATION WAS ORGANIZED SHALL CERTIFY THE ASSESSMENT LISTS FOR THE OTHER COUNTIES TO THE APPROPRIATE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(II) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL THEN CERTIFY THE TAX ASSESSMENT LISTS TO THE RESPECTIVE COUNTY TAX COLLECTORS FOR ACTION AS PROVIDED UNDER § 26–802 OF THIS SUBTITLE.

(D) PROCEEDS.

ALL MONEY COLLECTED IN THE SEVERAL COUNTIES AS PROVIDED UNDER THIS SECTION SHALL BE PAID OVER TO THE COUNTY TAX COLLECTOR OF THE COUNTY IN WHICH THE DRAINAGE ASSOCIATION WAS ORGANIZED AND CREDITED TO THE DRAINAGE ASSOCIATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 93.

In subsection (a) of this section, the reference to lands "of" the drainage association is substituted for the former reference to lands "in" the drainage association for consistency within this title.

In subsection (b) of this section, the reference to the assessment list "for each county" is substituted for the former reference to "such" assessment lists for clarity.

In subsection (c)(1) of this section, the reference to the procedure "to impose a special assessment under this section" is added for clarity.

In subsection (c)(2)(i) of this section, the reference to "the county in which the drainage association was organized" is added for clarity.

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Designated officer" § 26–101
"Drainage association" § 26–101
"Tax collector" § 1–101

26–807. ORDER OF PAYMENTS TO BE MADE BY BOARD OF MANAGERS.

(A) FIRST FUNDS.

FROM THE MONEY THAT FIRST BECOMES AVAILABLE UNDER THIS TITLE TO THE BOARD OF MANAGERS, THE BOARD OF MANAGERS SHALL PAY:

(1) THE COMPENSATION AND EXPENSES OF THE BOARD OF VIEWERS AND THE ENGINEERS;

(2) ANY DAMAGES AWARDED;

(3) ANY COMPENSATION AWARDED FOR EXISTING DRAINAGE PROJECTS; AND

(4) THE EXPENSES INCIDENT TO THE ORGANIZATION OF THE DRAINAGE ASSOCIATION.

(B) ADVANCEMENT.

(1) ON REQUEST BY THE BOARD OF MANAGERS, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY ADVANCE FUNDS TO PAY THE COSTS IN SUBSECTION (A) OF THIS SECTION.

(2) AN ADVANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REPAID FROM THE MONEY FIRST RECEIVED TO PAY SPECIAL ASSESSMENTS IMPOSED ON THE LANDOWNERS FOR THE DRAINAGE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 91.

In subsection (a)(3) of this section, the reference to "drainage projects" is substituted for the former reference to "improvements" for consistency within this title.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101
"Drainage association" § 26–101
"Landowner" § 26–101

SUBTITLE 9. DISSOLUTION.

26–901. DISSOLUTION PROCEDURE GENERALLY.

(A) PETITION.

(1) A MAJORITY OF THE LANDOWNERS OR THE OWNERS OF A MAJORITY OF THE LAND IN THE AREA OF A DRAINAGE ASSOCIATION MAY SUBMIT A PETITION TO DISSOLVE THE DRAINAGE ASSOCIATION TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE DRAINAGE ASSOCIATION WAS ORGANIZED.

(2) A COMPLETE LIST OF THE CREDITORS OF THE DRAINAGE ASSOCIATION CERTIFIED UNDER OATH BY THE BOARD OF MANAGERS SHALL ACCOMPANY THE PETITION.

(B) HEARING; NOTICE.

ON RECEIPT OF A PETITION UNDER SUBSECTION (A) OF THIS SECTION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(1) SET A DATE FOR A PUBLIC HEARING ON THE PETITION; AND

(2) GIVE NOTICE OF THE TIME, PLACE, AND PURPOSE OF THE HEARING AT LEAST 30 DAYS BEFORE THE HEARING BY:

(I) NOTICE MAILED TO EACH CREDITOR OF THE DRAINAGE ASSOCIATION AND EACH LANDOWNER; AND

(II) PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY AFFECTED BY THE DRAINAGE ASSOCIATION.

(C) ACTION ON PETITION.

(1) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY DENY OR APPROVE A PETITION FOR DISSOLUTION AFTER A PUBLIC HEARING UNDER THIS SECTION.

(2) ON APPROVAL OF A PETITION FOR DISSOLUTION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL GIVE NOTICE OF THE DISSOLUTION IN THE SAME MANNER AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(D) DISTRIBUTION OF REMAINING FUNDS.

AFTER PAYMENT OF ALL DEBTS, ANY BALANCE IN THE COUNTY TREASURY TO THE CREDIT OF THE DISSOLVED DRAINAGE ASSOCIATION SHALL BE DISTRIBUTED TO THE LANDOWNERS IN PROPORTION TO THE ORIGINAL ASSESSMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 102(a).

In subsection (a)(1) of this section, the reference to land "in the area of" a drainage association is substituted for the former reference to land "in" a drainage association for consistency within this title.

In the introductory language of subsection (b) of this section, the phrase "[o]n receipt of a petition under subsection (a) of this section" is substituted for the former reference to "thereupon" for clarity.

In subsection (b)(2)(i) of this section, the reference to each creditor "of the drainage association" is added for clarity.

Also in subsection (b)(2)(i) of this section, the former reference to "written or printed" notice is deleted as unnecessary in light of the reference to "mail[ing]" the notice.

In subsection (b)(2)(ii) of this section, the reference to each county "affected by the drainage association" is substituted for the former reference to "the county or counties in which such drainage association is located" for consistency within this title.

Also in subsection (b)(2)(ii) of this section, the former reference to "newspapers" is deleted in light of the reference to "newspaper" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (c)(2) of this section, the reference to a notice "of the dissolution" is added for clarity.

Also in subsection (c)(2) of this section, the phrase "[o]n approval of a petition for dissolution" is substituted for the former phrase "[i]n case of approval" for clarity.

Also in subsection (c)(2) of this section, the reference to giving notice "in the same manner as required under subsection (b) of this section" is substituted for the former reference to giving "the same" notice "as for the hearing on the petition" for clarity.

In subsection (d) of this section, the reference to "debts" is substituted for the former reference to "bills" for consistency with terminology used in other articles of the Code.

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Drainage association" § 26–101
"Landowner" § 26–101

26–902. DISSOLUTION OF INACTIVE ASSOCIATION.

(A) CRITERIA FOR INACTIVITY.

FOR THE PURPOSE OF THIS SECTION, A DRAINAGE ASSOCIATION IS CONSIDERED INACTIVE IF FOR AT LEAST 5 YEARS THE DRAINAGE ASSOCIATION HAS NOT COMPLIED SUBSTANTIALLY WITH A MAJORITY OF THE ORDINARY OPERATING PROCEDURES REQUIRED UNDER THIS TITLE, INCLUDING:

(1) THE MAINTENANCE OF ONGOING AND CURRENT INFORMATION IN THE DRAINAGE FILE AT THE OFFICE OF THE DESIGNATED OFFICER;

(2) ELECTION OF A BOARD OF MANAGERS AND OFFICERS OF THE BOARD;

(3) AN ANNUAL MEETING OF LANDOWNERS;

(4) THE SUBMISSION OF AN ANNUAL REPORT BY THE BOARD OF MANAGERS TO THE DESIGNATED OFFICER;

(5) THE DEVELOPMENT, APPROVAL, FILING, EXECUTION, OR MAINTENANCE OF A WORK PLAN APPLICABLE TO PROPERTY OWNED BY THE DRAINAGE ASSOCIATION; AND

(6) THE SUBMISSION AND REGULAR UPDATING OF THE DRAINAGE ASSOCIATION'S EASEMENT RECORD IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN THE APPLICABLE COUNTY.

(B) PETITION FOR DISSOLUTION.

NOTWITHSTANDING § 26–901 OF THIS SUBTITLE, ON A WRITTEN PETITION FOR DISSOLUTION BY ANY MEMBER OF THE MOST RECENTLY ELECTED OR APPOINTED BOARD OF MANAGERS OF AN INACTIVE DRAINAGE ASSOCIATION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE DRAINAGE ASSOCIATION WAS ORGANIZED PROMPTLY SHALL:

(1) PROVIDE PUBLIC NOTICE THAT THE COUNTY COMMISSIONERS OR COUNTY COUNCIL HAS RECEIVED AND IS CONSIDERING A PETITION FOR DISSOLUTION OF A DRAINAGE ASSOCIATION;

(2) HOLD A PUBLIC HEARING TO ACCEPT PUBLIC COMMENT BEFORE TAKING ANY ACTION ON THE PETITION;

(3) CONSIDER ALL AVAILABLE INFORMATION TO DETERMINE THE CURRENT OPERATING STATUS AND FORESEEABLE OPERATING POTENTIAL OF THE DRAINAGE ASSOCIATION; AND

(4) APPROVE OR DENY THE PETITION FOR DISSOLUTION.

(C) ACTIONS AFTER APPROVAL.

IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL APPROVE A PETITION FOR DISSOLUTION UNDER THIS SECTION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(1) SATISFY ALL OUTSTANDING DEBTS OF THE DRAINAGE ASSOCIATION IF ANY BALANCE REMAINS IN THE COUNTY TREASURY TO THE CREDIT OF THE DISSOLVED DRAINAGE ASSOCIATION;

(2) RETAIN ANY REMAINING BALANCE; AND

(3) PROVIDE FOR THE TRANSFER OF ANY INTEREST IN REAL PROPERTY HELD BY THE INACTIVE DRAINAGE ASSOCIATION TO ANY COUNTY IN WHICH THE PROPERTY IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 102(b), (c), and (d).

Subsection (a) of this section is revised as a substantive provision instead of definition of "inactive association" because the defined term was used only once.

In subsection (a)(5) of this section, the former reference to "appropriate" filing is deleted as surplusage.

In subsection (c)(2) of this section, the reference to the county commissioners "retain[ing] any remaining balance" is substituted for the former reference to the county commissioners "[d]istribut[ing] any remainder to the board of county commissioners" for clarity and brevity.

In subsection (c)(3) of this section, the former reference to "counties" is deleted in light of the reference to "county" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined terms: "Board of managers" § 26–101
"County" § 1–101
"Designated officer" § 26–101
"Drainage association" § 26–101
"Landowner" § 26–101

SUBTITLE 10. MISCELLANEOUS.

26–1001. RIGHT TO OPEN CROSS DITCHES OR DRAINS.

(A) IN GENERAL.

A PERSON WHO IS ASSESSED FOR A DITCH OR DRAIN THAT DOES NOT PASS THROUGH OR ON THE PERSON'S LAND MAY OPEN A DITCH OR INSTALL DRAIN TILE THROUGH THE INTERVENING LAND TO CONNECT TO THE MAIN DITCH AND KEEP THE DITCH OR DRAIN TILE OPEN AT THE PERSON'S EXPENSE AND CONTROL.

(B) EXCEPTION.

A PERSON MAY NOT OPEN A DITCH OR INSTALL DRAIN TILE THROUGH THE LAND OF ANOTHER PERSON WITHOUT THE CONSENT OF THE OWNER OF THE LAND, UNLESS THE DAMAGES TO THE LAND ACCRUING TO THE OWNER OF THE LAND ARE ASSESSED BY THREE OWNERS OF LAND APPOINTED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL TO ASSESS THE DAMAGES.

(C) PAYMENT OF COSTS AND DAMAGES.

A PERSON SEEKING TO OPEN A DITCH OR INSTALL DRAIN TILE UNDER THIS SECTION SHALL:

(1) PAY THE COSTS OF LAYING OUT AND OPENING THE DITCH OR DRAIN; AND

(2) PAY ALL DAMAGES AWARDED TO ANY PERSON WHO IS INJURED BY THE DITCH OR DRAIN BEFORE MAKING THE DITCH OR DRAIN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 97.

In subsection (a) of this section, the reference to opening a ditch or installing a drain tile "to connect to the main ditch" is substituted for the former reference to opening a ditch or installing a drain tile "into such main ditch" for clarity.

Also in subsection (a) of this section, the reference to a person's "control" is substituted for the former reference to a person's "charge" for clarity.

Also in subsection (a) of this section, the former references to "ditches" are deleted in light of the references to a "ditch" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (b) of this section, the reference to drain "tile" is added for consistency with subsection (a) of this section.

Also in subsection (b) of this section, the reference to three "owners of land" is substituted for the former reference to three "freeholders" to use more modern terminology.

In subsection (c) of this section, the reference to "seeking to open a ditch or install drain tile under this section" is substituted for the former reference to "applying for such ditch or drain" for clarity and consistency with subsection (a) of this section.

Also in subsection (c) of this section, the reference to "person who is injured by the ditch or drain" is substituted for the former reference to "such persons as may be injured thereby" for clarity.

Also in subsection (c) of this section, the former reference to "tender[ing]" damages is deleted as implicit in the reference to "pay[ing]" damages.

Defined term: "Person" § 1–101

26–1002. REQUIREMENTS WHEN DRAINAGE PROJECT CROSSES PUBLIC HIGHWAY.

(A) COUNTY TO BEAR COST.

IF A DRAINAGE PROJECT ESTABLISHED UNDER THIS TITLE CROSSES A PUBLIC HIGHWAY AT THE INTERSECTION OF THE HIGHWAY WITH A NATURAL WATERCOURSE OR DEPRESSION THROUGH WHICH WATER FLOWS DURING PERIODS OF HIGH WATER, THE COUNTY IN WHICH THE BRIDGE IS LOCATED OR THE GOVERNMENTAL UNIT REQUIRED BY LAW TO MAINTAIN THE HIGHWAY THAT IS INTERSECTED SHALL:

(1) PAY THE COST OF AN EXISTING BRIDGE, REPAIRING OR ENLARGING AN EXISTING BRIDGE AND CULVERT, OR CONSTRUCTING A NEW BRIDGE OR CULVERT; AND

(2) MAINTAIN THE BRIDGE OR CULVERT DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

(B) DRAINAGE ASSOCIATION TO BEAR COST.

IF A DRAINAGE PROJECT ESTABLISHED UNDER THIS TITLE CROSSES A PUBLIC HIGHWAY AT A POINT WHERE THE HIGHWAY DOES NOT INTERSECT A NATURAL WATERCOURSE OR DEPRESSION:

(1) THE DRAINAGE ASSOCIATION SHALL PAY THE COST OF CONSTRUCTING A NEW BRIDGE OR CULVERT; AND

(2) AFTER CONSTRUCTION, THE COUNTY OR OTHER GOVERNMENTAL UNIT REQUIRED BY LAW TO MAINTAIN THE HIGHWAY THAT IS INTERSECTED SHALL MAINTAIN THE BRIDGE AND ANY CULVERT CONSTRUCTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 99.

Throughout this section, the references to "a drainage project" are substituted for the former references to "any ditch, drain, or other improvement" for consistency within this title.

In the introductory language of subsection (a) of this section, the reference to the "governmental unit" is substituted for the former reference to the "other authority" for consistency with other revised articles of the Code. Similarly, in subsection (b)(2) of this section, the reference to the other "governmental unit" is substituted for the former reference to other "authority".

In subsection (a)(1) of this section, the reference to the cost of an "existing" bridge is added to distinguish between that cost and the cost of constructing a new bridge.

In subsection (b)(2) of this section, the former reference to bridges and culverts being maintained "at the expense" of the county or other governmental unit is deleted as implicit in the requirement to maintain them.

Defined terms: "County" § 1–101
"Drainage association" § 26–101

26–1003. REQUIREMENTS WHEN DRAINAGE PROJECT CROSSES RAILROAD RIGHT–OF–WAY.

(A) RAILROAD TO BEAR COST.

IF A DRAINAGE PROJECT ESTABLISHED UNDER THIS TITLE CROSSES A RAILROAD RIGHT–OF–WAY AT THE INTERSECTION OF THE RIGHT–OF–WAY WITH

A NATURAL WATERCOURSE OR DEPRESSION THROUGH WHICH WATER FLOWS AT PERIODS OF HIGH WATER, THE RAILROAD COMPANY SHALL:

(1) CONSTRUCT, BUILD, AND MAINTAIN ANY NECESSARY NEW BRIDGE OR CULVERT; OR

(2) ENLARGE, STRENGTHEN, RECONSTRUCT, OR REPLACE ANY EXISTING BRIDGE OR CULVERT.

(B) ELEMENT OF DAMAGE.

THE EXPENSE TO THE RAILROAD UNDER SUBSECTION (A) OF THIS SECTION SHALL BE:

(1) CONSIDERED AN ELEMENT OF DAMAGE TO THE RAILROAD COMPANY BY THE BOARD OF VIEWERS; AND

(2) SHOWN AS A DAMAGE IN THE REPORT OF THE BOARD OF VIEWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 100.

In subsection (b)(1) of this section, the reference to the "board of" viewers is added for consistency within this title. Similarly, in subsection (b)(2) of this section, the reference to the report "of the board of viewers" is substituted for "their" report.

Defined term: "Board of viewers" § 26–101

SUBTITLE 11. PROHIBITED ACTS.

26–1101. PREVENTING ENTRY ON DRAINAGE LAND.

(A) PROHIBITED.

A PERSON MAY NOT PREVENT A MEMBER, AN EMPLOYEE, OR AN AGENT OF THE BOARD OF MANAGERS OR A MEMBER OR AN AGENT OF THE BOARD OF VIEWERS FROM ENTERING LAND AS AUTHORIZED UNDER § 26–401(C) OF THIS TITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 67(b), as it related to the prohibition against entry on drainage land and criminal penalties for violating the prohibition.

In subsection (a) of this section, the reference to a person entering land "as authorized under § 26–401(c) of this title" is substituted for the former reference to "such" entrance for clarity.

In subsection (b) of this section, the former reference to the amount of the fine being "in the discretion of the court" is deleted as surplusage.

Defined terms: "Board of managers" § 26–101
"Board of viewers" § 26–101
"Person" § 1–101

26–1102. OBSTRUCTION OF DRAINAGE PROJECT.

(A) PROHIBITED.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT OBSTRUCT A DRAINAGE PROJECT CONSTRUCTED UNDER THIS TITLE IN A MANNER THAT IMPEDES THE FREE FLOW OF WATER.

(2) A PERSON MAY PLACE A PROPERLY CONSTRUCTED SWINGING WATER GATE ACROSS A DITCH ON A FENCE LINE TO PREVENT LIVESTOCK FROM TRESPASSING THROUGH THE DITCH.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500 FOR EACH OFFENSE.

(C) DISTRIBUTION OF FINES.

EACH FINE COLLECTED UNDER THIS SECTION SHALL BE PAID TO THE COUNTY TAX COLLECTOR AND CREDITED TO THE DRAINAGE ASSOCIATION THAT SUFFERED THE DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 98.

In subsection (a)(1) of this section, the reference to a "drainage project" is substituted for the former reference to a "ditch or drain or other improvement" for consistency in this title.

Also in subsection (a)(1) of this section, the former reference to "stop[ping] up" a drainage project is deleted as included in the reference to "obstruct[ing]" a drainage project.

In subsection (a)(2) of this section, the reference to "livestock" is substituted for the former reference to "stock" for clarity.

Defined terms: "Drainage association" § 26–101
"Person" § 1–101
"Tax collector" § 1–101

TITLE 27. DRAINAGE DISTRICTS.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

27–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) BOARD OF DRAINAGE COMMISSIONERS.

"BOARD OF DRAINAGE COMMISSIONERS" MEANS THE BOARD OF DRAINAGE COMMISSIONERS OF A DRAINAGE DISTRICT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "board of drainage commissioners of a drainage district".

Defined term: "Drainage district" § 27–101

(C) BOARD OF VIEWERS.

"BOARD OF VIEWERS" MEANS THE BOARD OF VIEWERS OF A DRAINAGE DISTRICT ESTABLISHED UNDER THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "board of viewers of a drainage district".

Defined term: "Drainage district" § 27–101

(D) DESIGNATED OFFICER.

"DESIGNATED OFFICER" MEANS:

(1) THE CLERK OF THE COUNTY COMMISSIONERS FOR A CODE COUNTY OR COMMISSION COUNTY IF THERE IS A CLERK FOR THE COUNTY; OR

(2) AN EMPLOYEE OR OFFICIAL OF A COUNTY WHO IS DESIGNATED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL TO PERFORM THE RESPONSIBILITIES OF THE DESIGNATED OFFICER UNDER THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to substitute a term for "clerk of the county commissioners" because many counties no longer have a clerk of the county commissioners or have transferred responsibilities formerly exercised by the clerk of the county commissioners to another official.

Defined terms: "Code county" § 1–101
"Commission county" § 1–101
"County" § 1–101

(E) DRAINAGE DISTRICT.

"DRAINAGE DISTRICT" MEANS A DRAINAGE DISTRICT ESTABLISHED UNDER THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the phrase "a drainage district established under this title".

(F) LANDOWNER.

"LANDOWNER" MEANS A PERSON WHO OWNS LAND LOCATED IN A DRAINAGE DISTRICT OR PROPOSED DRAINAGE DISTRICT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the phrase "a person who owns land located in a drainage district or proposed drainage district".

Defined terms: "Drainage district" § 27–101
"Person" § 1–101

27–102. SCOPE OF TITLE.

THIS TITLE DOES NOT APPLY TO BALTIMORE CITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 52(c) and, as it related to the scope of this title, the first clause of § 103.

The reference to this title "not apply[ing] to Baltimore City" is substituted for the former references to the "board of county commissioners of any county in the State of Maryland" and to this title "apply[ing] in those counties having a charter form of government under Article XI–A of the Maryland Constitution, with the term 'county council' being substituted in each instance in this subtitle for the term 'county commissioners'" and "apply[ing] in those counties having adopted code home rule under Article XI–F of the Maryland Constitution" for brevity. Baltimore City is the only jurisdiction that is not a code county or governed by county commissioners or a county council.

27–103. CONSTRUCTION OF TITLE.

THIS TITLE SHALL BE LIBERALLY CONSTRUED TO PROMOTE THE DITCHING, DRAINING, LEVEEING, AND RECLAIMING OF WET AND OVERFLOWED LAND THAT CAN BE MADE AVAILABLE FOR AGRICULTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 25, § 121H, as it related to the construction of this title.

27–104. POWER TO ESTABLISH.

IN RESPONSE TO A PETITION FILED UNDER § 27–201 OF THIS TITLE, THE COUNTY COMMISSIONERS OR A COUNTY COUNCIL OF A COUNTY MAY ESTABLISH A DRAINAGE DISTRICT TO:

(1) LOCATE AND ESTABLISH A LEVEE, DRAIN, OR CANAL;

(2) CONSTRUCT, STRAIGHTEN, WIDEN, OR DEEPEN A DITCH, DRAIN, OR WATERCOURSE; AND

(3) CONSTRUCT LEVEES, EMBANKMENTS, TIDEWATER GATES, AND PUMPING PLANTS TO DRAIN AND RECLAIM WET, SWAMP, OR OVERFLOWED LAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 103, as it related to the power to establish a drainage district.

In the introductory language of this section, the reference to establishing a drainage district "[i]n response to a petition filed under § 27–201 of this title" is added for accuracy.

Also in the introductory language of this section, the former reference to establishing a "levee" is deleted as included in the authority to establish a drainage district and for consistency with other similar provisions of this title.

Also in the introductory language of this section, the former reference to establishing drainage districts "in their county" is deleted as implicit in the county's authorization to act within their jurisdiction.

Also in the introductory language of this section, the former reference to "districts" is deleted in light of the reference to "district" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined terms: "County" § 1–101
"Drainage district" § 27–101

27–105. DECLARATION OF PUBLIC BENEFIT.

THE DRAINAGE OF SWAMPS, THE DRAINAGE OF THE SURFACE WATER FROM AGRICULTURAL LAND, AND THE RECLAMATION OF TIDAL MARSHES BENEFIT THE PUBLIC AND PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 103, as it related to the statement of the public benefit of drainage.

The reference to drainage "benefit[ing] the public and promot[ing] public health, safety, and welfare" is substituted for the former reference to drainage "be[ing] considered a public benefit and conducive to the public health, convenience, utility and welfare" for brevity and consistency with other similar provisions of the Code.

The former phrase "and it is hereby declared that" is deleted as surplusage.

SUBTITLE 2. PETITION TO ESTABLISH DRAINAGE DISTRICT.

27–201. PETITION — FILING.

A PETITION TO ESTABLISH A DRAINAGE DISTRICT SHALL BE FILED WITH THE DESIGNATED OFFICER WHERE ALL OR A PART OF THE LAND IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 25, § 104, as it related to the filing of a petition to establish a drainage district.

The reference to a petition "to establish a drainage district" is added for clarity.

The reference to "all" or part of the land is added to state expressly that which was only implied in the former law, *i.e.*, that a drainage district can be established within a single county.

Defined terms: "Designated officer" § 27–101
"Drainage district" § 27–101

27–202. PETITION — CONTENTS AND SIGNATURES.

(A) CONTENTS.

A PETITION SHALL:

(1) STATE THAT A SPECIFIC AREA OF LAND IS SUBJECT TO OVERFLOW OR IS TOO WET FOR CULTIVATION;

(2) DESCRIBE THE AREA'S LOCATION;

(3) DESCRIBE HOW DRAINING, DITCHING, OR LEVEEING THE AREA, CHANGING THE NATURAL WATERCOURSE, OR OTHER DRAINAGE PROJECTS BENEFIT THE PUBLIC OR PROMOTE THE PUBLIC HEALTH, SAFETY, OR WELFARE; AND

(4) SPECIFY, TO THE EXTENT PRACTICABLE, THE STARTING POINT, ROUTE, AND TERMINUS AND ANY LATERAL BRANCHES OF THE PROPOSED DRAINAGE PROJECT.

(B) REQUIRED SIGNATURES.

A PETITION IS VALID ONLY IF SIGNED BY THE MAJORITY OF THE RESIDENT LANDOWNERS IN THE PROPOSED DRAINAGE DISTRICT OR THE OWNERS OF THREE–FIFTHS OF THE LAND THAT WILL BE AFFECTED BY OR ASSESSED TO FINANCE THE PROPOSED DRAINAGE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 25, § 104, as it related to the content of a petition to establish a drainage district and the signatures required for the petition.

In this section and throughout this title, the references to a "drainage project" are substituted for the former references to "improvement[s]" for clarity and consistency within this title.

In subsection (a)(1) of this section, the reference to an "area of land" is substituted for the former reference to a "body or district of land in the county and adjoining counties" for clarity and brevity.

In subsection (a)(2) of this section, the former reference to describing the area "in such a way as to convey an intelligent idea" is deleted as implicit.

In subsection (a)(3) of this section, the reference to "other drainage projects" is added for clarity.

Also in subsection (a)(3) of this section, the reference to draining "benefit[ing] the public or promot[ing] the public health, safety, or welfare" is substituted for the former reference to "the public benefit or utility or the public health, convenience or welfare will be promoted by" draining for brevity and consistency with other similar provisions of the Code.

Also in subsection (a)(3) of this section, the former reference to "improving" the natural watercourse is deleted as implicit in the reference to "changing" the natural watercourse.

In subsection (a)(4) of this section, the reference to specifying "any" lateral branches is substituted for the former reference to setting forth lateral branches "if necessary" for brevity.

In subsection (b) of this section, the phrase "[a] petition is valid only if" signed by a majority of the landowners is added for clarity.

Also in subsection (b) of this section, the reference to being assessed "to finance" the project is substituted for the former reference to being assessed "for the expense of" the project for clarity.

Defined terms: "Drainage district" § 27–101
"Landowner" § 27–101

27–203. BOND.

(A) REQUIRED.

A BOND SHALL BE FILED WITH A PETITION.

(B) SPECIFICATIONS.

THE BOND SHALL BE:

(1) IN THE AMOUNT OF $50 PER MILE OF DITCH OR OTHER PROPOSED DRAINAGE PROJECT;

(2) SIGNED BY TWO OR MORE INDIVIDUAL SURETIES OR A LICENSED SURETY COMPANY;

(3) APPROVED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL; AND

(4) CONDITIONED ON PAYMENT OF ALL COSTS AND EXPENSES OF THE PROCEEDINGS IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL DO NOT GRANT THE PETITION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 25, § 104, as it related to the filing of a bond with a petition.

In subsection (a) of this section, the reference to filing a bond "with a petition" is substituted for the former reference to filing "therewith" for clarity.

In subsection (b)(2) of this section, the reference to "individual" sureties is added for clarity.

Also in subsection (b)(2) of this section, the reference to "a licensed" surety company is substituted for the former reference to "some lawful and authorized" surety company for brevity and clarity.

In subsection (b)(4) of this section, the former reference to granting "the prayer" of the petition is deleted as surplusage.

27–204. RESPONDENTS; SUMMONSES.

(A) RESPONDENTS.

EACH LANDOWNER WHO HAS NOT SIGNED THE PETITION IS A RESPONDENT.

(B) SUMMONSES.

(1) THE DESIGNATED OFFICER SHALL ISSUE A SUMMONS TO BE SERVED ON EACH RESPONDENT.

(2) A SUMMONS MAY BE SERVED BY PUBLICATION AS TO ANY RESPONDENT WHO CANNOT BE SERVED AS PROVIDED BY LAW.

(C) MORTGAGE HOLDERS.

(1) IF A MORTGAGE IS HELD ON LAND IN THE PROPOSED DRAINAGE DISTRICT, NOTICE OF THE PROCEEDINGS SHALL BE GIVEN TO THE HOLDER OF THE MORTGAGE IN THE SAME MANNER AS TO A RESPONDENT.

(2) A MORTGAGE HOLDER MAY APPEAR BEFORE THE COUNTY COMMISSIONERS OR COUNTY COUNCIL IN PERSON OR BY COUNSEL.

REVISOR'S NOTE: Subsection (a) of this section is new language added to state explicitly that which was only formerly implied.

Subsections (b) and (c) of this section are new language derived without substantive change from the second and third sentences of former Art. 25, § 104, and the first sentence, as it related to defendants and summonses.

In this section, the references to a "respondent" are substituted for the former references to "defendant[s]" for accuracy.

In subsection (b)(2) of this section, the former reference to a defendant being "personally" served is deleted as surplusage.

In subsection (c)(1) of this section, the reference to notice "of the proceedings" is added for clarity.

Also in subsection (c)(1) of this section, the former reference to notice "as is provided in §§ 103 through 121H" is deleted as surplusage.

Defined terms: "Designated officer" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101

27–205. MULTIPLE COUNTIES — JURISDICTION AND VENUE.

IF THE LAND DESCRIBED IN THE PETITION IS LOCATED IN TWO OR MORE COUNTIES, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF AN AFFECTED COUNTY MAY EXERCISE THE JURISDICTION CONFERRED IN THIS TITLE, BUT THE VENUE SHALL LIE IN THE COUNTY IN WHICH THE PETITION IS FILED.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth sentence of former Art. 25, § 104.

The reference to the land "described in the petition" is substituted for the former reference to the land "proposed to be drained and created into a drainage district" for brevity and clarity.

The reference to "an affected" county is substituted for the former reference to "either" county for clarity.

The former reference to the county in which the petition is "first" filed is deleted as surplusage.

Defined term: "County" § 1–101

SUBTITLE 3. BOARD OF VIEWERS.

27–301. APPOINTMENT.

(A) REQUIRED.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT A BOARD OF VIEWERS TO:

(1) EXAMINE THE LAND DESCRIBED IN THE PETITION; AND

(2) ISSUE A PRELIMINARY REPORT ON THE LAND.

(B) COMPOSITION.

(1) THE BOARD OF VIEWERS SHALL CONSIST OF:

(I) A CIVIL AND DRAINAGE ENGINEER; AND

(II) TWO RESIDENT LANDOWNERS OF THE COUNTY WHERE THE LAND IS LOCATED.

(2) (I) THE CIVIL AND DRAINAGE ENGINEER SHALL BE AN INDIVIDUAL RECOMMENDED BY THE STATE DRAINAGE ENGINEER.

(II) IF THERE IS NO STATE DRAINAGE ENGINEER, THE CIVIL AND DRAINAGE ENGINEER SHALL BE AN INDIVIDUAL RECOMMENDED BY THE STATE ROADS ENGINEER.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth sentence of former Art. 25, § 104.

In the introductory language of subsection (a) of this section, the former reference to "[u]pon the return day" is deleted as surplusage.

In subsection (b)(1)(i) of this section, the former reference to a "disinterested and competent" civil and drainage engineer is deleted as implicit and for consistency with other similar provisions of the Code.

In subsection (b)(1)(ii) of this section, the former reference to "counties" is deleted in light of the reference to "county" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined terms: "Board of viewers" § 27–101
"County" § 1–101
"Landowner" § 27–101
"State" § 1–101

27–302. DUTIES.

(A) EXAMINATION OF LANDS.

THE BOARD OF VIEWERS:

(1) SHALL MAKE A CAREFUL AND THOROUGH EXAMINATION OF THE LAND DESCRIBED IN THE PETITION AND OF OTHER LAND IF NECESSARY, TO LOCATE PROPERLY ANY IMPROVEMENT THAT IS PETITIONED FOR, ALONG THE ROUTE DESCRIBED IN THE PETITION OR ANY OTHER ROUTE THAT IS MORE PRACTICABLE OR FEASIBLE;

(2) SHALL ENSURE THAT THE LAND OF ANY PERSON WHO IS SEEKING TO BE INCLUDED IN THE DRAINAGE DISTRICT HAS BEEN INCLUDED IN THE DRAINAGE DISTRICT; AND

(3) MAY CONDUCT SURVEYS TO:

(I) DETERMINE THE BOUNDARIES AND ELEVATIONS OF THE PARTS OF THE DISTRICT; AND

(II) ENABLE THE BOARD OF VIEWERS TO FORM A TENTATIVE PLAN FOR DEVELOPMENT.

(B) REPORT.

(1) THE BOARD OF VIEWERS SHALL MAKE AND RETURN TO THE DESIGNATED OFFICER A WRITTEN REPORT THAT STATES WHETHER:

(I) THE PROPOSED DRAINAGE IS PRACTICABLE;

(II) THE PROPOSED DRAINAGE WILL BENEFIT THE PUBLIC HEALTH OR ANY PUBLIC HIGHWAY OR BE CONDUCIVE TO THE GENERAL WELFARE OF THE COMMUNITY;

(III) THE PROPOSED DRAINAGE PROJECT WILL BENEFIT THE LAND IN QUESTION SUFFICIENTLY TO WARRANT THE PROBABLE EXPENDITURE; AND

(IV) ALL THE LAND THAT WILL BE BENEFITED IS INCLUDED IN THE PROPOSED DRAINAGE DISTRICT.

(2) THE REPORT SHALL BE AVAILABLE FOR INSPECTION IN AN OFFICE OF THE DESIGNATED OFFICER WITHIN 30 DAYS AFTER THE DATE ON WHICH THE DESIGNATED OFFICER RECEIVES THE REPORT, UNLESS THE COUNTY COMMISSIONERS OR COUNTY COUNCIL EXTEND THE TIME PERIOD FOR PROVIDING THE REPORT.

(C) MAP OF PROPOSED DRAINAGE DISTRICT.

THE REPORT SHALL INCLUDE A MAP OF THE PROPOSED DRAINAGE DISTRICT THAT:

(1) SHOWS THE LOCATION OF THE DITCH OR OTHER IMPROVEMENT TO BE CONSTRUCTED WITH AN ESTIMATE OF THE COST OF THE IMPROVEMENT;

(2) SHOWS THE LAND THAT WILL BE AFFECTED BY THE IMPROVEMENT, INCLUDING THE NAME OF EACH LANDOWNER, IF THE NAME OF THE LANDOWNER CAN BE OBTAINED; AND

(3) PROVIDES ANY OTHER INFORMATION COLLECTED BY THE BOARD OF VIEWERS THAT SUPPORTS THE BOARD'S FINDINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 105.

In subsection (a)(1) of this section, the former requirement that the board of viewers "at once proceed" to examine the land is deleted as surplusage.

Also in subsection (a)(1) of this section, the former reference to "improvements" is deleted in light of the reference to "improvement" and Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (a)(1) of this section, the former reference to any other route "answering the same purpose" is deleted as surplusage.

In subsection (a)(2) of this section, the reference to the land of "any person who is seeking to be included" in the drainage district is substituted for the former reference to the land of "all who desire to come" in the drainage district for clarity.

In the introductory language of subsection (a)(3) of this section, the former reference to "necessary" surveys is deleted as surplusage.

In subsection (a)(3)(i) of this section, the former reference to the "several" parts of the district is deleted as surplusage.

In subsection (b)(2) of this section, the reference to "the date on which the designated officer receives the report" is added for clarity.

Also in subsection (b)(2) of this section, the requirement that the report "be available for inspection" is substituted for the former requirement that the report "be placed on public file" for clarity and for consistency with other similar provisions of the Code.

In subsection (c)(1) of this section, the reference to the cost "of the improvement" is added for clarity.

Also in subsection (c)(1) of this section, the former reference to "ditches" is deleted in light of the reference to "ditch" and Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (c)(1) of this section, the former reference to an "approximate" estimate is deleted as unnecessary in light of the reference to an "estimate".

In subsection (c)(3) of this section, the reference to the requirement that the report providing any other information collected by the board that "supports the board's findings" is substituted for the former reference to the requirement that the report include information that "will tend to show the correctness of their findings" for clarity.

Defined terms: "Board of viewers" § 27–101
"Designated officer" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101
"Person" § 1–101

27–303. CONSIDERATION OF REPORT.

(A) IN GENERAL.

(1) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL REVIEW THE REPORT REQUIRED UNDER § 27–302 OF THIS SUBTITLE AT ITS FIRST MEETING AFTER RECEIVING THE REPORT.

(2) THE BOARD OF VIEWERS SHALL BE PRESENT AT THE MEETING.

(B) ACTION ON UNFAVORABLE REPORT.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL DISMISS A PETITION FILED UNDER § 27–201 OF THIS TITLE AT THE COST OF THE PETITIONERS IF:

(1) THE BOARD OF VIEWERS FINDS THAT THE DRAINAGE:

(I) IS NOT PRACTICABLE;

(II) WILL NOT BENEFIT THE PUBLIC HEALTH OR ANY PUBLIC HIGHWAY; OR

(III) DOES NOT PROMOTE THE GENERAL WELFARE OF THE COMMUNITY; AND

(2) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL APPROVE THE FINDING.

(C) ACTION ON FAVORABLE REPORT.

IF THE FINDING OF THE BOARD OF VIEWERS IS FAVORABLE TO THE DRAINAGE PROJECT AND THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SUPPORT THE FINDING AFTER HEARING ALL OF THE EVIDENCE, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(1) MAKE ANY NECESSARY RECOMMENDATIONS TO THE BOARD OF VIEWERS;

(2) DIRECT THE BOARD OF VIEWERS TO MAKE A COMPLETE SURVEY, PLANS AND SPECIFICATIONS, AND AN ESTIMATE OF COST FOR ANY TILE, DRAIN, LEVEE, OR OTHER IMPROVEMENT; AND

(3) SPECIFY A TIME WHEN THE BOARD OF VIEWERS SHALL FILE A FINAL REPORT, NOT TO EXCEED 60 DAYS, UNLESS EXTENDED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL IN WRITING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 106.

In subsection (a)(1) of this section, the reference to the county commissioners or county council "review[ing] the report required under § 27–302 of this subtitle at its first meeting after receiving the report" is substituted for the former reference to the board of county commissioners "consider[ing] this report at their first meeting" for clarity.

In subsection (a)(2) of this section, the reference to the "board of viewers" being present at the meeting is substituted for the former reference to the "engineer and the other two viewers" being present for clarity and brevity.

In the introductory language of subsection (b) of this section, the reference to a petition "filed under § 27–201 of this title" is added for clarity.

In the introductory language of subsection (c) of this section, the reference to the "drainage" project is added for clarity and consistency with other similar provisions of this title.

In subsection (c)(1) of this section, the reference to "necessary" recommendations is substituted for the former reference to recommendations "as they think proper" for brevity.

In subsection (c)(3) of this section and throughout this subtitle, the references to the "board of viewers" are substituted for the former references to "engineer and viewers" for clarity.

Also in subsection (c)(3) of this section, the former reference to "complet[ing]" reports is deleted as implicit in the reference to "fil[ing]" reports.

Defined term: "Board of viewers" § 27–101

27–304. POWERS AND DUTIES OF BOARD OF VIEWERS.

(A) AUTHORITY TO EMPLOY ASSISTANTS.

THE BOARD OF VIEWERS MAY EMPLOY ASSISTANTS TO MAKE A COMPLETE SURVEY OF THE DRAINAGE DISTRICT.

(B) DUTIES.

(1) THE BOARD OF VIEWERS SHALL:

(I) ENTER THE LAND SUBJECT TO THE PETITION;

(II) SURVEY THE MAIN DRAIN AND ANY LATERAL DRAIN;

(III) MARK ON THE GROUND THE LINE OF EACH DITCH, DRAIN, OR LEVEE;

(IV) NOTE THE COURSE AND DISTANCE OF EACH DITCH SO THAT EACH DITCH CAN BE ACCURATELY PLATTED AND MAPPED;

(V) RUN A LINE OF LEVELS FOR THE ENTIRE WORK AND SECURE SUFFICIENT DATA FROM WHICH ACCURATE PROFILES AND PLANS CAN BE MADE FOR EACH PROPOSED DRAIN OR LEVEE;

(VI) ESTABLISH FREQUENT BENCH MARKS ALONG THE LINE ON PERMANENT OBJECTS AND RECORD THE ELEVATION AND PROVIDE A FULL DESCRIPTION OF THE BENCH MARKS IN THE FIELD BOOKS, INCLUDING THE LOCATION OF THE BENCH MARKS ON A MAP;

(VII) RUN OTHER LEVELS TO DETERMINE THE FALL FROM ONE PART OF THE DRAINAGE DISTRICT TO ANOTHER, IF THE BOARD OF VIEWERS FINDS IT EXPEDIENT; AND

(VIII) IF A WATERCOURSE, DITCH, OR CHANNEL IS BEING WIDENED, DEEPENED, OR STRAIGHTENED, CROSS–SECTION THE WATERCOURSE, DITCH, OR CHANNEL TO COMPUTE THE CUBIC YARDS OF EXCAVATION OR FILL SAVED BY USING THE WATERCOURSE, DITCH, OR CHANNEL.

(2) (I) AFTER COMPLETING THE SURVEY, THE BOARD OF VIEWERS SHALL COMPLETE A DRAINAGE MAP OF THE DISTRICT SHOWING:

1. THE LOCATION OF THE DITCH AND OTHER IMPROVEMENTS;

2. THE BOUNDARY, AS CLOSELY AS MAY BE DETERMINED BY THE RECORDS, OF THE LAND OWNED BY ANY INDIVIDUAL LANDOWNER; AND

3. THE LOCATION OF ANY RAILROAD OR PUBLIC HIGHWAY AND THE BOUNDARY OF ANY MUNICIPALITY.

(II) IN ADDITION TO THE MAP, THE BOARD OF VIEWERS SHALL PREPARE A PROFILE OF EACH LEVEE, DRAIN, OR WATERCOURSE SHOWING:

1. THE SURFACE OF THE GROUND;

2. THE BOTTOM OR GRADE OF THE PROPOSED IMPROVEMENT AND THE NUMBER OF CUBIC YARDS OF EXCAVATION OR FILL IN EACH MILE OR FRACTION OF A MILE;

3. THE TOTAL YARDS IN THE PROPOSED IMPROVEMENT AND THE NUMBER OF CUBIC YARDS OF EXCAVATION OR FILL IN EACH MILE OR FRACTION OF A MILE;

4. THE TOTAL YARDS IN THE PROPOSED IMPROVEMENT AND THE ESTIMATED COST OF THE IMPROVEMENT; AND

5. PLANS AND SPECIFICATIONS AND THE COST OF ANY OTHER NECESSARY WORK.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 107.

In subsection (a) of this section, the former reference to employing assistants "as may be necessary" is deleted as surplusage.

In subsection (b)(1)(i) of this section, the reference to the board of viewers entering "the land subject to the petition" is substituted for the former reference to the board entering "upon the ground" for clarity and consistency with other similar provisions of this title.

In subsection (b)(1)(ii) of this section, the former reference to "drains" is deleted in light of the reference to "drain" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in subsection (b)(2)(i)1 of this section, the former reference to "ditches" is deleted in light of the reference to "ditch".

In subsection (b)(1)(iii) of this section, the former reference to "plainly and substantially" marking a line is deleted as implicit in the duty to mark the line.

In subsection (b)(1)(iv) of this section, the former references to "carefully" and "sufficient[ly]" noting the course and distance of ditches are deleted as surplusage.

In subsection (b)(1)(viii) of this section, the reference to cubic yards of "excavation or fill" is added for clarity.

Also in subsection (b)(1)(viii) of this section, the reference to "the watercourse, ditch, or channel" is substituted for the former reference to "such old channel" for clarity.

Also in subsection (b)(1)(viii) of this section, the former reference to "accurately" cross–sectioning is deleted as implicit.

In subsection (b)(2)(i)2 and 3 of this section, the former phrase "within the district" is deleted as surplusage.

Defined terms: "Board of viewers" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101
"Municipality" § 1–101

27–305. ASSESSMENT OF DAMAGES.

(A) IN GENERAL.

THE BOARD OF VIEWERS SHALL ASSESS THE DAMAGES CLAIMED BY ANY PERSON THAT IS ENTITLED TO DAMAGES FOR LAND TAKEN OR FOR INCONVENIENCE CAUSED BY THE CONSTRUCTION OF THE IMPROVEMENT AND THE ESTABLISHMENT OF THE DRAINAGE DISTRICT OR FOR ANY OTHER LEGAL DAMAGES SUSTAINED.

(B) REQUIREMENTS.

THE DAMAGES ASSESSED UNDER THIS SECTION SHALL BE:

(1) CONSIDERED APART FROM ANY BENEFIT THE LAND WOULD RECEIVE BECAUSE OF THE PROPOSED IMPROVEMENT; AND

(2) PAID BY THE BOARD OF DRAINAGE COMMISSIONERS WHEN FUNDS ARE AVAILABLE AS PROVIDED IN § 27–502 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 108.

In subsection (a) of this section, the reference to a person that is "entitled" to damages is substituted for the former reference to a person that is "justly right and due" to damages for clarity.

In subsection (b)(1) of this section, the reference to the proposed "improvement" is substituted for the former reference to the proposed "work" for consistency with other similar provisions of this title.

Also in subsection (b)(1) of this section, the former reference to damages being "separate" is deleted as included in the reference to damages being "apart".

In subsection (b)(2) of this section, the reference to damages being paid "when funds are available as provided under § 27–502 of this title" is substituted for the former reference to damages being paid "when funds shall come into their hands as hereinafter set forth" for clarity.

Defined terms: "Board of drainage commissioners" § 27–101
"Board of viewers" § 27–101
"Drainage district" § 27–101
"Person" § 1–101

27–306. ASSESSMENT OF BENEFITS.

(A) IN GENERAL.

(1) THE BOARD OF VIEWERS SHALL EXAMINE THE LAND IN THE DRAINAGE DISTRICT AND CLASSIFY THE LAND WITH REFERENCE TO THE BENEFIT THAT THE LAND WILL RECEIVE FROM THE CONSTRUCTION OF THE LEVEE, DITCH, DRAIN, WATERCOURSE, OR OTHER IMPROVEMENT.

(2) IF DRAINAGE IS PROPOSED, THE BOARD OF VIEWERS SHALL CONSIDER THE DEGREE OF WETNESS OF THE LAND, THE PROXIMITY OF THE LAND TO THE DITCH OR A NATURAL OUTLET, AND THE FERTILITY OF THE SOIL IN DETERMINING THE AMOUNT OF BENEFIT THAT THE LAND WILL RECEIVE BY THE CONSTRUCTION OF THE DITCH.

(B) CLASSIFICATION OF LAND.

THE LAND BENEFITED SHALL BE SEPARATED INTO FIVE CLASSES IN THE FOLLOWING MANNER:

(1) THE LAND RECEIVING THE HIGHEST BENEFIT SHALL BE MARKED "CLASS A";

(2) THE LAND RECEIVING THE SECOND HIGHEST BENEFIT SHALL BE MARKED "CLASS B";

(3) THE LAND RECEIVING THE THIRD HIGHEST BENEFIT SHALL BE MARKED "CLASS C";

(4) THE LAND RECEIVING THE FOURTH HIGHEST BENEFIT SHALL BE MARKED "CLASS D"; AND

(5) THE LAND RECEIVING THE SMALLEST BENEFIT SHALL BE MARKED "CLASS E".

(C) DETERMINATION OF ACRES FOR EACH CLASS.

(1) THE BOARD OF VIEWERS SHALL DETERMINE:

(I) THE NUMBER OF ACRES IN THE DRAINAGE DISTRICT IN EACH CLASS LISTED IN SUBSECTION (B) OF THIS SECTION;

(II) THE TOTAL NUMBER OF ACRES OWNED BY ONE PERSON IN EACH CLASS; AND

(III) THE TOTAL NUMBER OF ACRES BENEFITED.

(2) THE HOLDINGS OF AN INDIVIDUAL LANDOWNER NEED NOT BE ALL IN ONE CLASS.

(3) THE BOARD OF VIEWERS NEED NOT MARK THE BOUNDARY ON THE GROUND OR SHOW ON A MAP THE NUMBER OF ACRES IN EACH CLASS.

(D) CLASSIFICATION OF ACRES FOR ENTIRE DRAINAGE DISTRICT.

THE BOARD OF VIEWERS SHALL DETERMINE THE TOTAL NUMBER OF ACRES OF EACH CLASS LISTED IN SUBSECTION (B) OF THIS SECTION IN THE ENTIRE DRAINAGE DISTRICT AND PRESENT THE INFORMATION IN TABULATED FORM.

(E) SCALE OF ASSESSMENT.

THE SCALE OF ASSESSMENT ON THE CLASSES OF LAND DETERMINED BY THE BOARD OF VIEWERS SHALL BE IN THE RATIO OF FIVE, FOUR, THREE, TWO, AND ONE IN ACCORDANCE WITH THE FOLLOWING EXAMPLE, IF FIVE MILLS PER ACRE IS ASSESSED AGAINST THE LAND IN "CLASS A":

(1) FOUR MILLS PER ACRE SHALL BE ASSESSED AGAINST THE LAND IN "CLASS B";

(2) THREE MILLS PER ACRE SHALL BE ASSESSED AGAINST THE LAND IN "CLASS C";

(3) TWO MILLS PER ACRE SHALL BE ASSESSED AGAINST THE LAND IN "CLASS D"; AND

(4) ONE MILL PER ACRE SHALL BE ASSESSED AGAINST THE LAND IN "CLASS E".

(F) MODIFICATION OF SCALE OF ASSESSMENT.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE SCALE OF ASSESSMENT SHALL FORM THE BASIS OF:

(I) THE ASSESSMENT OF BENEFITS TO THE LAND FOR DRAINAGE PURPOSES; AND

(II) ANY FUTURE ASSESSMENT, TAX, OR COST CONNECTED WITH THE DRAINAGE DISTRICT.

(2) THE SCALE OF ASSESSMENT MAY BE MODIFIED BY ORDER OF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AT THE FINAL HEARING OR A COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 109.

In subsection (a)(1) of this section, the former reference to "personally" examining the land is deleted as surplusage.

In subsection (a)(2) of this section, the phrase "[i]f drainage is proposed" is substituted for the former phrase "[i]n the case of drainage" for clarity.

In subsections (c)(1) and (d) of this section, the phrase "[t]he board of viewers shall determine" is added for clarity.

In the introductory language of subsection (e) of this section, the reference to the classes of land "determined" is substituted for the former reference to the classes of land "returned" for clarity.

In subsection (f)(1)(ii) of this section, the former reference to future "levies" is deleted as included in the reference to a future "tax".

In subsection (f)(2) of this section, the former reference to the requirement that the scale of assessment may be "changed" is deleted as unnecessary in light of the reference to the requirement that the scale of assessment may be "modified".

Also in subsection (f)(2) of this section, the reference to "by order of … a court" is substituted for the former reference to "to conform to any decree of the courts" for clarity.

Defined terms: "Board of viewers" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101
"Person" § 1–101

27–307. REPORT TO COUNTY COMMISSIONERS OR COUNTY COUNCIL.

THE BOARD OF VIEWERS SHALL REPORT TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL:

(1) THE NAME OF ANY PERSON EMPLOYED TO CONDUCT THE SURVEY REQUIRED UNDER § 27–302 OF THIS SUBTITLE;

(2) THE NUMBER OF DAYS THE PERSON WAS EMPLOYED ON THE SURVEY;

(3) A DESCRIPTION OF THE WORK PERFORMED BY THE PERSON;

(4) ANY EXPENSES INCURRED BY THE PERSON IN TRAVELING TO AND FROM THE WORK; AND

(5) THE COST OF ANY SUPPLIES OR MATERIAL USED IN CONDUCTING THE SURVEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 110.

In the introductory language of this section, the former requirement that the board of viewers shall "at all times keep an accurate account" is deleted as implicit in the requirement to "report".

In item (1) of this section, the reference to a survey "required under § 27–302 of this subtitle" is added for clarity.

In item (3) of this section, the reference to "a description" of the work is substituted for the former reference to "the kind" of work for clarity.

Defined terms: "Board of viewers" § 27–101
"Person" § 1–101

27–308. REPORT TO COUNTY.

(A) REQUIRED.

WHEN THE FINAL REPORT IS COMPLETE:

(1) THE BOARD OF VIEWERS SHALL FILE THE REPORT WITH THE COUNTY COMMISSIONERS OR COUNTY COUNCIL; AND

(2) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL EXAMINE THE REPORT.

(B) RE–REFERRAL IF NOT COMPLIANT.

IF THE COUNTY COMMISSIONERS OR THE COUNTY COUNCIL FINDS THAT THE REPORT IS NOT IN THE CORRECT FORM, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY RETURN THE REPORT TO THE BOARD OF VIEWERS WITH

INSTRUCTIONS TO PROVIDE FURTHER INFORMATION TO BE REPORTED AT A DATE SET BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(C) SCHEDULING OF HEARING.

IF THE COUNTY COMMISSIONERS OR THE COUNTY COUNCIL FINDS THAT THE REPORT IS IN CORRECT FORM AND IN ACCORDANCE WITH THE LAW, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(1) ACCEPT THE REPORT; AND

(2) SET A DATE FOR A FINAL HEARING ON THE REPORT THAT IS AT LEAST 30 DAYS AFTER THE REPORT IS ACCEPTED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(D) NOTICE.

FOR AT LEAST 2 WEEKS BEFORE THE FINAL HEARING ON THE REPORT, A NOTICE OF THE FINAL HEARING SHALL BE PROVIDED:

(1) BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY; AND

(2) BY POSTING A WRITTEN NOTICE ON THE DOOR OF THE COURTHOUSE AND AT FIVE CONSPICUOUS PLACES THROUGHOUT THE DRAINAGE DISTRICT.

(E) REPORT AVAILABLE FOR INSPECTION.

DURING THE 2–WEEK PERIOD IN SUBSECTION (D) OF THIS SECTION, A COPY OF THE REPORT SHALL BE:

(1) KEPT ON FILE IN THE OFFICE OF THE DESIGNATED OFFICER; AND

(2) OPEN TO INSPECTION BY ANY LANDOWNER OR INTERESTED PERSON IN THE DRAINAGE DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 111.

In subsection (a)(1) of this section, the reference to "the board of viewers" filing the report with the county commissioners or county council is added to state explicitly that which was formerly implied.

In subsections (b) and (c) of this section, the references to "the county commissioners or county council find[ing]" that the report is not in correct form are added for clarity.

Also in subsections (b) and (c) of this section, the references to a report being in "correct" form are substituted for the former references to a report being in "due" form for clarity.

In subsection (b) of this section, the reference to "provid[ing]" information is substituted for the former reference to "secur[ing]" information for clarity.

In subsection (c) of this section, the former phrase "[w]hen the report is fully completed" is deleted as unnecessary in light of the requirement that a report must be "accepted" and would have therefore already been completed.

In subsection (d)(2) of this section, the former requirement to post a "printed" notice is deleted as included in the requirement to post a "written" notice.

In subsection (e) of this section, the reference to a copy of the report being on file "[d]uring the 2–week period in subsection (d) of this section" is substituted for the former reference to the report being on file "[d]uring this time" for clarity.

Defined terms: "Board of viewers" § 27–101
"County" § 1–101
"Designated officer" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101
"Person" § 1–101

27–309. SUMMONS OF DEFENDANT LANDOWNERS; NOTICE.

(A) SUMMONS.

THE DESIGNATED OFFICER SHALL SUMMON OR CAUSE TO BE SUMMONED ANY RESPONDENT THAT IS KNOWN TO THE DESIGNATED OFFICER OR TO THE BOARD OF VIEWERS.

(B) NOTICE IF OWNERS ARE UNASCERTAINABLE.

(1) IF THE DESIGNATED OFFICER FINDS BY AFFIDAVIT OR OTHERWISE THAT A LANDOWNER WHOSE NAME IS UNKNOWN CANNOT AFTER

DUE DILIGENCE BE DETERMINED BY THE PETITIONERS, THE DESIGNATED OFFICER SHALL SUMMON THE UNKNOWN LANDOWNER BY PUBLISHING THE PETITION OR THE SUBSTANCE OF THE PETITION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE LAND IS LOCATED.

(2) THE SUMMONS SHALL:

(I) DESCRIBE THE LAND AS TO WHICH THE OWNER IS UNKNOWN;

(II) INCLUDE THE ORDER OF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL;

(III) INCLUDE THE DATE OF THE FINAL HEARING THAT WILL BE HELD BEFORE THE COUNTY COMMISSIONERS OR THE COUNTY COUNCIL ESTABLISHES THE DRAINAGE DISTRICT; AND

(IV) BE PUBLISHED FOR 4 SUCCESSIVE WEEKS BEFORE THE DATE OF THE FINAL HEARING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 112.

In subsection (a) of this section, the reference to a "respondent" is substituted for the former reference to "defendant landowners, who have not signed the petition" for consistency with § 27–204(a) of this title.

In subsection (b) of this section, the former references to "owners" are deleted in light of the references to "owner" and Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (b) of this section, the former references to any "tract or tracts of" land are deleted as surplusage.

In subsection (b)(1) of this section, the reference to "the unknown landowner" is substituted for the former reference to "all such persons" for clarity.

Also in subsection (b)(1) of this section, the reference to a "landowner" is substituted for the former reference to "the owner or owners of the whole or any share of any tract or tracts of land" for brevity.

Also in subsection (b)(1) of this section, the former reference to "giv[ing] notice in the nature of a" summons is deleted as surplusage.

In subsection (b)(2)(i) of this section, the former reference to describing the land "generally" is deleted as surplusage.

Defined terms: "Board of viewers" § 27–101
"County" § 1–101
"Designated officer" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101

27–310. PROCEDURE AT HEARING ON REPORT.

(A) PARTICIPANTS.

ANY LANDOWNER MAY APPEAR AT THE HEARING IN PERSON OR BY COUNSEL AND OBJECT IN WRITING TO THE REPORT OF THE BOARD OF VIEWERS.

(B) CONSIDERATION BY COUNTY.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(1) REVIEW THE REPORT OF THE BOARD OF VIEWERS AND ANY OBJECTION FILED TO THE REPORT; AND

(2) MAKE ANY CHANGE THAT IS NECESSARY TO TREAT EACH LANDOWNER IN THE DRAINAGE DISTRICT EQUITABLY.

(C) ACTION ON REPORT.

(1) IF THE COUNTY COMMISSIONERS OR THE COUNTY COUNCIL FINDS THAT THE COST OF CONSTRUCTION AND THE AMOUNT OF DAMAGES ASSESSED DO NOT EXCEED THE BENEFIT THAT WILL ACCRUE TO THE AFFECTED LAND, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL CONFIRM THE REPORT OF THE BOARD OF VIEWERS AND DECLARE THE DRAINAGE DISTRICT TO BE ESTABLISHED.

(2) IF THE COUNTY COMMISSIONERS OR THE COUNTY COUNCIL FINDS THAT THE COST OF CONSTRUCTION AND THE AMOUNT OF DAMAGES ASSESSED EXCEED THE BENEFIT THAT WILL ACCRUE TO THE AFFECTED LAND, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL DISMISS THE PROCEEDINGS AT THE COST OF THE PETITIONERS, AND ANY SURETY ON THE BOND FILED BY THE PETITIONERS SHALL BE LIABLE FOR THE COSTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 113.

In subsection (a) of this section, the phrase "at the hearing" is substituted for the former phrase "[a]t the date set for hearing" for brevity and clarity.

Also in subsection (a) of this section, the reference to a landowner "object[ing]" is substituted for the former reference to a landowner "fil[ing] his objection" for brevity.

In subsection (b)(1) of this section, the former reference to the county commissioners or county council "carefully" reviewing the report is deleted as surplusage.

In subsection (b)(2) of this section, the reference to the county commissioners or county council making changes necessary to "treat each landowner in the drainage district equitably" is substituted for the former reference to the county commissioners or county council making changes necessary to "render substantial and equal justice to all the landowners in the district" for brevity and consistency with other similar provisions of the Code.

Defined terms: "Board of viewers" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101

SUBTITLE 4. BOARD OF DRAINAGE COMMISSIONERS.

27–401. APPOINTMENT.

(A) REQUIRED.

AFTER THE COUNTY COMMISSIONERS OR COUNTY COUNCIL ESTABLISH A DRAINAGE DISTRICT, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT THREE LANDOWNERS TO BE THE BOARD OF DRAINAGE COMMISSIONERS, SUBJECT TO THE WRITTEN APPROVAL OF A MAJORITY OF LANDOWNERS.

(B) VACANCIES.

A VACANCY THAT OCCURS ON THE BOARD OF DRAINAGE COMMISSIONERS SHALL BE FILLED IN THE SAME MANNER THAT INITIAL APPOINTMENTS ARE MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 25, § 115.

In subsection (a) of this section and throughout this title, the references to "landowners" are substituted for the former references to "freeholders" for conformity with modern terminology.

In subsection (a) of this section, the former reference to "the survey and plan therefor [being] approved" is deleted as implicit in the reference to the establishment of the drainage district.

In subsection (b) of this section, the reference to a vacancy being filled "in the same manner that initial appointments are made" is substituted for the former reference to a vacancy being filled "in like manner" for clarity.

Defined terms: "Board of drainage commissioners" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101

27–402. INCORPORATION.

(A) STATUS.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL ORGANIZE AS A CORPORATION NAMED "THE BOARD OF DRAINAGE COMMISSIONERS OF ….. DISTRICT".

(B) POWERS.

A BOARD OF DRAINAGE COMMISSIONERS MAY:

(1) EXERCISE CORPORATE POWERS;

(2) HOLD AND CONVEY PROPERTY; AND

(3) SUE AND BE SUED.

(C) SEAL.

A BOARD OF DRAINAGE COMMISSIONERS SHALL ADOPT A SEAL.

REVISOR'S NOTE: This section is new language derived without substantive change from the third and seventh sentences of former Art. 25, § 115.

In subsection (a) of this section, the reference to a "corporation" is substituted for the former reference to a "corporate body" for conformity with modern terminology.

Also in subsection (a) of this section, the former reference to the Board of Drainage Commissioners being in a certain "style" is deleted as surplusage.

In subsection (b) of this section, the reference to "exercis[ing]" corporate powers is substituted for the former reference to "possess[ing]" corporate powers for clarity.

In subsection (c) of this section, the former reference to "alter[ing] at pleasure" a seal is deleted as implicit in the power to "adopt" a seal.

Defined term: "Board of drainage commissioners" § 27–101

27–403. OFFICERS.

(A) CHAIR AND VICE CHAIR.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL ELECT A CHAIR AND A VICE CHAIR FROM AMONG ITS MEMBERS.

(B) SECRETARY.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL ELECT A SECRETARY FROM AMONG ITS MEMBERS OR FROM OUTSIDE ITS MEMBERSHIP.

(C) COUNTY TAX COLLECTOR.

THE TAX COLLECTOR OF THE COUNTY WHERE THE PETITION WAS FILED SHALL BE AN EX OFFICIO MEMBER OF THE BOARD OF DRAINAGE COMMISSIONERS.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth, fifth, and sixth sentences of former Art. 25, § 115.

In subsection (a) of this section, the former reference to "organiz[ing] by" electing officers is deleted as surplusage.

In subsection (c) of this section, the reference to an ex officio "member" is added for clarity.

Also in subsection (c) of this section, the phrase "the petition was filed" is substituted for the former phrase "the proceeding was instituted" for clarity.

Defined terms: "Board of drainage commissioners" § 27–101
"County" § 1–101
"Tax collector" § 1–101

27–404. SUPERINTENDENT OF CONSTRUCTION.

(A) APPOINTMENT.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL APPOINT A COMPETENT SUPERINTENDENT OF CONSTRUCTION.

(B) COMPENSATION.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL DETERMINE THE COMPENSATION OF THE SUPERINTENDENT OF CONSTRUCTION.

(C) BOND.

(1) THE SUPERINTENDENT OF CONSTRUCTION SHALL POST A BOND WITH THE BOARD OF DRAINAGE COMMISSIONERS, CONDITIONED ON HONEST AND FAITHFUL PERFORMANCE.

(2) THE BOARD OF DRAINAGE COMMISSIONERS SHALL DETERMINE THE AMOUNT OF THE BOND AND APPROVE THE BOND.

(D) TERMINATION OF CONTRACT.

THE BOARD OF DRAINAGE COMMISSIONERS MAY TERMINATE THE CONTRACT OF THE SUPERINTENDENT OF CONSTRUCTION WHENEVER THE BOARD OF DRAINAGE COMMISSIONERS CONSIDERS THE SERVICES OF THE SUPERINTENDENT OF CONSTRUCTION TO BE NO LONGER NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 116.

In subsection (c)(1) of this section, the reference to "post[ing] a bond with" the board of drainage commissioners is substituted for the former reference to "such bond to be in favor of" the board of drainage commissioners for clarity.

Defined term: "Board of drainage commissioners" § 27–101

27–405. DRAINAGE RECORD; EASEMENT RECORD.

(A) DRAINAGE RECORD.

(1) THE DESIGNATED OFFICER SHALL MAINTAIN A DRAINAGE RECORD IN WHICH THE DESIGNATED OFFICER SHALL RECORD EACH PETITION, MOTION, ORDER, REPORT, JUDGMENT, AND FINDING OF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL IN EACH DRAINAGE TRANSACTION THAT COMES BEFORE THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AS TO MAKE A COMPLETE AND CONTINUOUS RECORD.

(2) COPIES OF ALL MAPS AND PROFILES SHALL BE:

(I) FURNISHED BY THE ENGINEER;

(II) MARKED "OFFICIAL COPIES" BY THE DESIGNATED OFFICER;

(III) KEPT ON FILE IN THE DESIGNATED OFFICER'S OFFICE; AND

(IV) OPEN TO PUBLIC INSPECTION.

(B) EASEMENT RECORD.

(1) THE BOARD OF DRAINAGE COMMISSIONERS SHALL SUBMIT TO THE CLERK OF THE APPROPRIATE CIRCUIT COURT AN EASEMENT RECORD LISTING EACH EASEMENT FOR MAINTENANCE AND RIGHTS–OF–WAY THAT THE DRAINAGE DISTRICT HAS ON ANY LAND IN THE COUNTY.

(2) THE CLERK SHALL MAKE THE EASEMENT RECORD AVAILABLE FOR PUBLIC INSPECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 114.

In subsection (a)(1) of this section, the reference to "maintain[ing] a drainage record" is substituted for the former reference to "provid[ing] a suitable book, to be known as the 'drainage record'" for brevity.

Also in subsection (a)(1) of this section, the former reference to a record "of the case" is deleted as surplusage.

In subsection (b)(1) of this section, the reference to "drainage district" is substituted for the former reference to "association" for clarity.

Also in subsection (b)(1) of this section, the reference to the "circuit" court is substituted for the former reference to the "county" court for clarity.

Also in subsection (b)(1) of this section, the former reference to the drainage commissioners "of every drainage district in this State" is deleted as surplusage.

Also in subsection (b)(1) of this section, the former reference to "a suitable book, to be known as the" easement record is deleted as surplusage.

Defined terms: "Board of drainage commissioners" § 27–101
"County" § 1–101
"Designated officer" § 27–101
"Drainage district" § 27–101

SUBTITLE 5. RIGHTS–OF–WAY AND CONDEMNATION.

27–501. RIGHTS–OF–WAY ACROSS LAND NOT AFFECTED.

A DRAINAGE DISTRICT MAY ACQUIRE A RIGHT–OF–WAY ACROSS LAND THAT IS NOT AFFECTED BY THE DRAINAGE PROJECT BUT IS LOCATED IN THE DRAINAGE DISTRICT TO CONSTRUCT A DITCH OR CANAL OR FOR ANY OTHER NECESSARY PURPOSE AUTHORIZED BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and fourth clauses of former Art. 25, § 120.

The former reference to land which will not be "benefited" by a drainage project is deleted as included in the reference to land which is not "affected" by the drainage project.

The former reference to the "outer boundaries of" a drainage district is deleted as surplusage.

Defined term: "Drainage district" § 27–101

27–502. CONDEMNATION FOR RIGHT–OF–WAY.

(A) IN GENERAL.

THE BOARD OF DRAINAGE COMMISSIONERS HAS THE POWER OF EMINENT DOMAIN AND MAY BEGIN CONDEMNATION PROCEEDINGS UNDER TITLE 12 OF THE REAL PROPERTY ARTICLE IF:

(1) IT IS NECESSARY TO ACQUIRE A RIGHT–OF–WAY THROUGH LAND NOT AFFECTED BY THE DRAINAGE; AND

(2) THE LAND CANNOT BE ACQUIRED BY PURCHASE.

(B) PAYMENT OF DAMAGES.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL AWARD DAMAGES OUT OF THE FIRST FUNDS AVAILABLE FROM BOND PROCEEDS OR OTHERWISE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 121.

In subsection (a)(1) of this section, the former reference to the acquisition of a right–of–way "over" land is deleted as included in the reference to a right–of–way "through" land.

Also in subsection (a)(1) of this section, the former reference to acquiring "an outlet" is deleted as included in the reference to acquiring "a right–of–way".

In subsection (b) of this section, the former reference to damages "awarded as compensation" is deleted as surplusage.

Defined term: "Board of drainage commissioners" § 27–101

SUBTITLE 6. IMPLEMENTATION OF PLAN.

27–601. COMPETITIVE BIDDING.

(A) ADVERTISEMENT.

THE BOARD OF DRAINAGE COMMISSIONERS:

(1) SHALL ADVERTISE FOR BIDS TO CONSTRUCT THE DRAINAGE PROJECT;

(2) SHALL AWARD THE CONTRACT FOR THE DRAINAGE PROJECT TO THE LOWEST RESPONSIBLE BIDDER; AND

(3) MAY REJECT ANY OR ALL BIDS AND READVERTISE FOR OTHER BIDS.

(B) TERMS OF CONTRACT.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL SET:

(1) THE TERMS FOR PAYMENT WITH THE CONTRACTOR; AND

(2) THE AMOUNT OF THE CONTRACTOR'S BOND, WHICH SHALL BE GIVEN IN FAVOR OF THE BOARD OF DRAINAGE COMMISSIONERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 121D.

In subsection (a)(1) of this section, the former reference to the drainage project "either as a whole or in parts" is deleted as surplusage.

In subsection (a)(2) of this section, the phrase "award the contract for the drainage project" is substituted for the former phrase "be let to" for clarity.

Also in subsection (a)(2) of this section, the former reference to "bidders" is deleted in light of the reference to "bidder" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a)(3) of this section, the reference to readvertising "for other bids" is added for clarity.

In subsection (b)(1) of this section, the former phrase "as they deem proper" is deleted as surplusage.

Defined term: "Board of drainage commissioners" § 27–101

27–602. MAINTENANCE AND OPERATION OF DRAINAGE PROJECTS.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL CONTROL, SUPERVISE, AND MAINTAIN EACH DRAINAGE PROJECT COMPLETED UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 121E, as it related to the duty of the board of drainage commissioners to maintain a drainage project.

The reference to "maintain[ing]" each drainage project is substituted for the former reference to "keep[ing] … in good repair" for brevity.

The reference to each "drainage project" is substituted for the former reference to the "levee, ditch, drain or watercourse" for brevity and consistency with other similar provisions of this title.

Defined term: "Board of drainage commissioners" § 27–101

27–603. COMPENSATION AND EXPENSES.

(A) ENGINEERS, VIEWERS, AND LABORERS.

(1) THE ENGINEERS WHO ARE APPOINTED TO THE BOARD OF VIEWERS SHALL RECEIVE COMPENSATION PER DIEM, AS AGREED ON BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(2) THE INDIVIDUALS, OTHER THAN THE ENGINEERS, WHO ARE APPOINTED TO THE BOARD OF VIEWERS SHALL RECEIVE $3 PER DAY.

(3) THE RODMEN, AXMEN, CHAINMEN, AND OTHER LABORERS EMPLOYED BY A DRAINAGE DISTRICT SHALL RECEIVE COMPENSATION NOT TO EXCEED $2 PER DAY EACH.

(B) DRAINAGE COMMISSIONERS.

THE BOARD OF DRAINAGE COMMISSIONERS MAY NOT RECEIVE A PER DIEM BUT SHALL BE REIMBURSED FOR EXPENSES INCURRED WHEN ENGAGED IN THE WORK OF THE DRAINAGE DISTRICT.

(C) OTHER FEES AND COSTS.

ALL OTHER FEES AND COSTS INCURRED UNDER THIS TITLE ARE THE SAME AS PROVIDED BY LAW FOR SIMILAR SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 121F.

In subsection (a)(1) of this section, the reference to engineers "who are appointed to the board of viewers" is substituted for the former reference to engineers "employed under the provisions of §§ 103 through 121H of this article" for accuracy.

In subsection (a)(2) of this section, the reference to "individuals … who are appointed to the board of viewers" is substituted for the former reference to "viewers" for clarity.

In subsection (a)(3) of this section, the reference to rodmen, axmen, chainmen, and other laborers "employed by a drainage district" is added for clarity.

In subsection (b) of this section, the former references to "actual" expenses and "actually" engaged are deleted as surplusage.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the compensation amounts established in subsection (a) of this section are so low as to be obsolete.

Defined terms: "Board of drainage commissioners" § 27–101
"Board of viewers" § 27–101
"Drainage district" § 27–101

SUBTITLE 7. FINANCING.

27–701. ASCERTAINMENT OF COSTS.

(A) IN GENERAL.

THE BOARD OF DRAINAGE COMMISSIONERS SHALL ASCERTAIN THE TOTAL COST OF THE DRAINAGE PROJECT, INCLUDING THE PAYMENT OF DAMAGES AWARDED TO THE LANDOWNERS, AFTER:

(1) THE CLASSIFICATION OF LANDS AND THE RATIO OF ASSESSMENT OF THE DIFFERENT CLASSES OF LANDS HAS BEEN CONFIRMED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AT THE TIME OF THE FINAL HEARING; AND

(2) ANY APPEAL MADE TO THE CIRCUIT COURT HAS BEEN ADJUDICATED.

(B) SPECIFIC COSTS.

THE TOTAL COST OF THE DRAINAGE PROJECT MAY INCLUDE:

(1) ALL COSTS AND INCIDENTAL EXPENSES;

(2) THE COMPENSATION OF MEMBERS OF THE BOARD OF VIEWERS AND ASSISTANTS AND THE SUPERINTENDENT OF CONSTRUCTION;

(3) THE EXPENSES OF THE BOARD OF DRAINAGE COMMISSIONERS;

(4) THE NECESSARY EXPENSES OF MAINTAINING THE DRAINAGE PROJECT FOR A PERIOD OF 3 YEARS AFTER THE COMPLETION OF THE CONSTRUCTION WORK; AND

(5) THE PAYMENT OF INTEREST ON DRAINAGE BONDS FOR A PERIOD OF 3 YEARS.

(C) CERTIFICATION.

(1) THE BOARD OF DRAINAGE COMMISSIONERS, UNDER THE DIRECTION OF THE CHAIR AND SECRETARY OF THE BOARD, SHALL CERTIFY TO THE DESIGNATED OFFICER THE TOTAL ESTIMATED COST OF THE DRAINAGE PROJECT.

(2) THE CERTIFICATION SHALL BE RECORDED IN THE DRAINAGE RECORD AND OPEN TO INSPECTION BY ANY LANDOWNER.

(D) BONDS AUTHORIZED.

IF THE TOTAL ESTIMATED COST OF THE PROPOSED DRAINAGE PROJECT CONSTRUCTED UNDER THIS TITLE IS LESS THAN AN AVERAGE OF 25 CENTS PER ACRE OF THE TOTAL AREA, THE BOARD OF DRAINAGE COMMISSIONERS MAY ISSUE BONDS AND SHALL COLLECT THE ASSESSMENT FROM THE LANDOWNERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 117 and the thirteenth sentence of § 118.

In subsection (a)(1) of this section, the reference to different classes "of lands" is substituted for the former reference to "thereon" for clarity.

In subsection (a)(2) of this section, the former reference to an appeal "that may have been" made is deleted as surplusage.

In the introductory language of subsection (b) of this section, the phrase "[t]he total cost of the drainage project may include" is added for clarity.

In subsection (b)(2) of this section, the reference to "members of the board of viewers" is substituted for the former reference to "engineer[s], viewers" for clarity and consistency with other similar provisions of this title.

In subsection (c)(1) of this section, the reference to "the direction of" the chair is substituted for the former reference to "the hand of" the chair for clarity.

In subsection (d) of this section, the former reference to the assessment being paid "in cash" is deleted as surplusage.

Defined terms: "Board of drainage commissioners" § 27–101
"Board of viewers" § 27–101
"Designated officer" § 27–101
"Landowner" § 27–101

27–702. EXEMPTION OF LAND NOT BENEFITED.

(A) FORMATION OF THE DRAINAGE DISTRICT.

A DRAINAGE DISTRICT MAY INCLUDE LAND THAT MAY NOT BE AFFECTED BY THE COMPLETED DRAINAGE PROJECT.

(B) LAND NOT BENEFITED.

ANY LAND THAT WILL NOT BE AFFECTED BY THE COMPLETED DRAINAGE PROJECT MAY NOT BE ASSESSED ANY DRAINAGE ASSESSMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, second, and third clauses of former Art. 25, § 120.

In subsection (a) of this section, the reference to the "completed" drainage project is substituted for the former reference to "as finally established" for brevity and consistency with other similar provisions of this subtitle.

Also in subsection (a) of this section, the reference to the drainage district "includ[ing] land that may not be affected by the completed drainage project" is substituted for the former reference to any "lands which will not be affected or benefited by the drainage project shall be located within the outer boundaries" of the drainage district for brevity.

In subsection (b) of this section, the reference to a drainage "assessment" is substituted for the former reference to a drainage "tax" for consistency with other similar provisions of this article.

Defined term: "Drainage district" § 27–101

27–703. ASSESSMENTS.

(A) PREPARATION OF ASSESSMENT LIST.

WHEN THE BOARD OF DRAINAGE COMMISSIONERS HAS ESTIMATED THE TOTAL COST OF THE DRAINAGE PROJECT AS PROVIDED UNDER § 27–701 OF THIS SUBTITLE, THE BOARD SHALL IMMEDIATELY PREPARE 10 ASSESSMENT LISTS TO COVER THE PERIOD OF THE BOND ISSUE, PROVIDING:

(1) THE NAMES OF THE LANDOWNERS IN THE DRAINAGE DISTRICT AS DETERMINED FROM THE PUBLIC RECORDS;

(2) A BRIEF DESCRIPTION OF THE TRACTS OF LAND ASSESSED; AND

(3) THE AMOUNT OF THE ASSESSMENT AGAINST EACH TRACT OF LAND.

(B) BASIS FOR EACH ASSESSMENT LIST.

(1) THE ASSESSMENT LISTS SHALL PROVIDE ASSESSMENTS SUFFICIENT FOR:

(I) THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BOND ISSUE; AND

(II) THE AMOUNTS THAT HAVE TO BE PAID FOR COLLECTION AND HANDLING OF THE ASSESSMENTS.

(2) THE ASSESSMENT LIST SHALL PROVIDE ASSESSMENTS FOR EACH YEAR OF THE BOND ISSUE BEGINNING WITH THE THIRD YEAR AND ENDING WITH THE 12TH YEAR.

(C) CONTENT OF ASSESSMENT LISTS.

(1) EACH ASSESSMENT LIST SHALL:

(I) SPECIFY THE TIME WHEN THE ASSESSMENT IS COLLECTIBLE; AND

(II) BE NUMBERED IN ORDER.

(2) THE AMOUNT ASSESSED AGAINST EACH TRACT OF LAND SHALL BE BASED ON THE BENEFIT RECEIVED, AS SHOWN BY THE CLASSIFICATION AND RATIO OF ASSESSMENTS MADE BY THE BOARD OF VIEWERS.

(D) SIGNING OF ASSESSMENT LISTS.

THE ASSESSMENT LISTS SHALL BE SIGNED BY THE CHAIR AND SECRETARY OF THE BOARD OF DRAINAGE COMMISSIONERS.

(E) FILING AND DISTRIBUTION.

AFTER THE DESIGNATED OFFICER HAS ATTACHED AN ORDER TO EACH ASSESSMENT LIST DIRECTING THE COLLECTION OF THE ASSESSMENTS, ONE COPY OF EACH ASSESSMENT LIST SHALL BE:

(1) FILED WITH THE DRAINAGE RECORD; AND

(2) DELIVERED TO THE COUNTY TAX COLLECTOR.

(F) LIEN ON PROPERTY.

AFTER THE ASSESSMENT LIST IS FILED AND DELIVERED, THE ASSESSMENTS CONSTITUTE A LIEN, SECOND ONLY TO STATE AND COUNTY REAL PROPERTY TAXES, ON THE LAND ASSESSED FOR THE PAYMENT OF BONDS AND THE INTEREST ON THE BONDS AS THE PAYMENT BECOMES DUE.

(G) DUE DATE.

THE ASSESSMENTS SHALL BE DUE AND PAYABLE ANNUALLY ON THE FIRST MONDAY IN JANUARY.

(H) COLLECTION.

EACH ASSESSMENT SHALL BE COLLECTED IN THE SAME MANNER AND BY THE SAME OFFICER AS STATE AND COUNTY REAL PROPERTY TAXES.

(I) SALE OF DELINQUENT LAND.

(1) IF THE ASSESSMENTS ARE NOT PAID IN FULL ON OR BEFORE APRIL 30 FOLLOWING THE DUE DATE, THE COUNTY TAX COLLECTOR SHALL SELL THE DELINQUENT LAND.

(2) THE SALE OF LAND SHALL BE BETWEEN 10 A.M. AND 4 P.M. AT THE COURTHOUSE DOOR OF THE COUNTY IN WHICH THE LAND IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through tenth sentences of former Art. 25, § 118.

In this section, the references to the "assessment list" are substituted for the former references to the "drainage tax list" and "assessment roll" for consistency with other similar provisions of this article.

In subsection (a) of this section, the former reference to preparing assessment lists "in duplicate" is deleted as surplusage.

In subsection (b)(1)(i) of this section, the reference to the "payment of principal … on the bond issue" is substituted for the former reference to "the instalment of principal to fall due at the expiration of the third year after the date of issue" for brevity.

In subsection (b)(2) of this section, the reference to the assessment list providing assessments "for each year of the bond issue beginning with the third year and ending with the 12th year" is substituted for the former reference to "[t]he second assessment roll shall make like provisions for the fourth year; the third for the fifth year; the fourth for the sixth year; the fifth for the seventh year; the sixth for the eighth year; the seventh for the ninth year; the eighth for the tenth year; the ninth for the eleventh year; the tenth for the twelfth year" for brevity.

In subsections (e)(2) and (i)(1) of this section, the former references to the "sheriff" are deleted as obsolete because the sheriff does not have any authority to collect taxes.

In subsections (f) and (h) of this section, the references to State and county "real property" taxes are added for clarity.

In subsection (f) of this section, the former reference to the assessment list "hav[ing] the force and effect of a judgment as in the case of State and county taxes" is deleted for accuracy because taxes do not constitute a judgment.

Also in subsection (f) of this section, the former reference to a "first and paramount" lien is deleted as unnecessary in light of the reference to the assessments being "second only" to State and county real property taxes.

In subsection (h) of this section, the reference to assessments being collected "in the same manner" as State and county real property taxes is substituted for the former reference to "[t]he existing law as to the collection of" State and county real property taxes "hav[ing] application" to drainage assessments for consistency with other similar provisions of the Code.

In subsection (i)(1) of this section, the former reference to "lands" is deleted in light of the reference to "land" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined terms: "Board of drainage commissioners" § 27–101
"Board of viewers" § 27–101
"County" § 1–101

"Designated officer" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101
"State" § 1–101
"Tax collector" § 1–101

27–704. ASSESSMENT OF PUBLIC PROPERTY OR RAILROAD.

IF THE BOARD OF VIEWERS, WHEN MAKING THE EXAMINATION AND SURVEYS OF THE DRAINAGE PROJECT, FINDS THAT THE DRAINAGE PROJECT WILL BENEFIT A RAILROAD, PUBLIC HIGHWAY, OR OTHER PUBLIC PROPERTY, THE BOARD OF VIEWERS SHALL ASSESS THE RAILROAD, STATE, OR COUNTY FOR THE BENEFITS DERIVED FROM THE DRAINAGE DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 119.

The reference to making the examination and surveys of the "drainage project" is added for clarity.

The reference to assessing the "railroad" is substituted for the former reference to assessing a "corporation" for clarity.

The former reference to a drainage project "when carried out" is deleted as surplusage.

The former phrase "in their return" is deleted as surplusage.

The former reference to assessing "an amount which they consider just" is deleted as implicit in the authority to make an assessment relative to a benefit.

Defined terms: "Board of viewers" § 27–101
"County" § 1–101
"Drainage district" § 27–101
"State" § 1–101

27–705. ISSUANCE OF BONDS.

(A) NOTICE.

(1) THE BOARD OF DRAINAGE COMMISSIONERS SHALL GIVE NOTICE OF A PROPOSAL TO ISSUE BONDS BY:

(I) PUBLICATION FOR 3 WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE ANY PART OF THE DRAINAGE DISTRICT IS LOCATED;

(II) POSTING A NOTICE AT THE DOOR OF THE COURTHOUSE IN THE COUNTY WHERE ANY PART OF THE DRAINAGE DISTRICT IS LOCATED; AND

(III) POSTING A NOTICE AT FIVE CONSPICUOUS PLACES IN THE VICINITY OF THE DRAINAGE DISTRICT.

(2) THE NOTICE SHALL INCLUDE:

(I) THE PROPOSAL TO ISSUE BONDS TO PAY FOR THE TOTAL COST OF THE DRAINAGE PROJECT;

(II) THE AMOUNT OF BONDS TO BE ISSUED;

(III) THE INTEREST RATE FOR THE BONDS; AND

(IV) THE DATE WHEN THE BONDS ARE PAYABLE.

(B) PAYMENT BY LANDOWNER IN ADVANCE.

(1) A LANDOWNER THAT DOES NOT WANT TO PAY INTEREST ON THE BONDS MAY PAY TO THE COUNTY TAX COLLECTOR, WITHIN 15 DAYS AFTER THE PUBLICATION OF THE NOTICE IN SUBSECTION (A) OF THIS SECTION, THE FULL AMOUNT DUE FOR THE LANDOWNER, AS PROVIDED IN THE CLASSIFICATION SHEET AND THE CERTIFICATE OF THE BOARD OF DRAINAGE COMMISSIONERS SHOWING THE TOTAL COST OF THE DRAINAGE PROJECT.

(2) IF THE LANDOWNER PAYS THE FULL AMOUNT, THE LANDOWNER IS RELIEVED FROM LIABILITY FOR THE DRAINAGE PROJECT.

(3) THE LANDOWNER SHALL CONTINUE TO BE LIABLE FOR ANY FUTURE ASSESSMENT FOR MAINTENANCE OR FOR ANY INCREASED ASSESSMENT AUTHORIZED UNDER LAW.

(C) ISSUANCE AND SALE OF BONDS.

(1) AT THE EXPIRATION OF THE 3 WEEKS AFTER THE PUBLICATION OF THE NOTICE IN SUBSECTION (A) OF THIS SECTION, THE BOARD OF DRAINAGE COMMISSIONERS MAY ISSUE BONDS OF THE DRAINAGE DISTRICT

IN AN AMOUNT EQUAL TO THE TOTAL COST OF THE DRAINAGE PROJECT LESS ANY AMOUNT THAT HAS BEEN PAID TO THE COUNTY TAX COLLECTOR, INCLUDING AN AMOUNT SUFFICIENT TO PAY INTEREST ON THE BOND ISSUE FOR THE 3 YEARS AFTER THE DATE OF ISSUE.

(2) ALL BONDS ISSUED UNDER THIS SECTION:

(I) SHALL BEAR INTEREST;

(II) SHALL BE PAYABLE SEMIANNUALLY;

(III) SHALL BE PAID IN 10 EQUAL INSTALLMENTS, WITH THE FIRST INSTALLMENT OF PRINCIPAL MATURING 3 YEARS AFTER THE ISSUE, AND ONE INSTALLMENT FOR EACH SUCCEEDING YEAR FOR 9 ADDITIONAL YEARS;

(IV) SHALL BE NUMBERED BY THE BOARD OF DRAINAGE COMMISSIONERS;

(V) SHALL BE RECORDED IN THE DRAINAGE RECORD; AND

(VI) MAY NOT BE SOLD FOR A PRICE LESS THAN PAR.

(3) THE BOARD OF DRAINAGE COMMISSIONERS SHALL USE THE PROCEEDS OF THE BONDS TO PAY:

(I) FOR THE WORK AS IT PROGRESSES;

(II) THE INTEREST ON THE BONDS ISSUED FOR THE 3 YEARS AFTER THE DATE OF ISSUE; AND

(III) THE OTHER EXPENSES OF THE DRAINAGE DISTRICT PROVIDED UNDER THIS TITLE.

(D) DISPOSITION OF PROCEEDS.

(1) THE PROCEEDS FROM THE SALE OF BONDS UNDER THIS SECTION SHALL BE FOR THE EXCLUSIVE USE OF THE DRAINAGE DISTRICT SPECIFIED ON THE BONDS.

(2) THE DRAINAGE RECORD SHALL LIST THE LAND IN THE DRAINAGE DISTRICT ON WHICH THE ASSESSMENT HAS NOT BEEN PAID IN FULL.

(E) BONDHOLDER'S RIGHT OF ACTION ON DEFAULT.

(1) IF AN INSTALLMENT OF PRINCIPAL OR INTEREST ON THE BONDS IS NOT PAID AT THE TIME AND IN THE MANNER DUE AND THE DEFAULT CONTINUES FOR 6 MONTHS, THE HOLDER OF THE BOND IN DEFAULT HAS A RIGHT OF ACTION AGAINST THE DRAINAGE DISTRICT OR THE BOARD OF DRAINAGE COMMISSIONERS.

(2) IF AN ACTION IS BROUGHT, THE COURT MAY ISSUE A WRIT OF MANDAMUS AGAINST THE DRAINAGE DISTRICT AND ITS OFFICERS, INCLUDING THE COUNTY TAX COLLECTOR, THAT DIRECTS THE IMPOSITION OF A SPECIAL ASSESSMENT AGAINST LANDOWNERS IN DEFAULT IN AN AMOUNT NECESSARY TO MEET UNPAID INSTALLMENTS OF PRINCIPAL AND INTEREST AND THE COSTS OF THE ACTION.

(3) THE HOLDER OF ANY BOND IN DEFAULT MAY:

(I) PURSUE ANY OTHER REMEDY AUTHORIZED BY LAW; AND

(II) BRING SUIT AGAINST ANY OFFICER ON THE OFFICIAL BOND OF THE OFFICER FOR FAILING TO PERFORM A DUTY REQUIRED UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 121B and the first through sixth sentences of § 121C.

In subsection (a)(1)(i) of this section, the reference to "any part of the drainage district" is substituted for the former reference to "the district, or some part thereof" for clarity and consistency with other similar provisions of this title.

Also in subsection (a)(1)(i) of this section, the former phrase "if there be any such newspaper" is deleted as surplusage.

In subsection (a)(1)(ii) of this section, the phrase "in the county where any part of the drainage district is located" is added for clarity.

In subsection (a)(1)(iii) of this section, the reference to the places "in the vicinity of the drainage district" is added for clarity and consistency with other similar provisions of this title.

In subsection (b)(1) of this section, the reference to a "landowner … pay[ing] … the full amount due" is substituted for the former reference to "the full amount for which his land is liable" because a landowner makes the payment and is therefore liable, rather than the "land" being liable.

Similarly, in subsections (b)(2) and (3) of this section, the references to the "landowner" are substituted for the former references to "his lands" and "such land".

In subsection (c)(1) of this section, the former reference to "sell[ing]" bonds is deleted as implicit in the authority to "issue" bonds.

Also in subsection (c)(1) of this section, the former reference to paying "in cash" is deleted as overly limiting of the manner in which the amount due can be paid.

In subsection (d)(1) of this section, the reference to the drainage district specified on "the bonds" is substituted for the former reference to the district specified on "their face" for clarity.

Also in subsection (d)(1) of this section, the former reference to the "levee" specified on the bonds is deleted as included in the reference to the "drainage district" specified on the bonds.

In subsection (d)(2) of this section, the reference to the "assessment" is substituted for the former reference to the "tax" for consistency with other similar provisions of this title.

Also in subsection (d)(2) of this section, the former reference to lands "embraced" is deleted as surplusage.

Also in subsection (d)(2) of this section, the former phrase "which land is to be assessed as hereafter provided" is deleted as implicit.

In subsection (e) of this section, the former references to "holders" are deleted in light of the references to "holder" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in subsection (e) of this section, the former references to "bonds" are deleted in light of the references to "bond".

In subsection (e)(1) of this section, the former reference to an installment being "payable" is deleted as included in the reference to an installment being "due".

In subsection (e)(2) of this section, the reference to the "imposition of a special assessment against landowners in default" is substituted for the former reference to the "levying of a tax or special assessment as herein provided" for clarity and consistency within this title.

Also in subsection (e)(2) of this section, the phrase "[i]f an action is brought" is substituted for the former reference to "wherein" for clarity.

Also in subsection (e)(2) of this section, the former reference to the "collection" of an assessment is deleted as implicit in the "imposition" of an assessment.

In subsection (e)(3)(i) of this section, the reference to "any other remedy authorized by law" is substituted for the former reference to "such other remedies are hereby vested" for clarity.

Defined terms: "Board of drainage commissioners" § 27–101
"County" § 1–101
"Drainage district" § 27–101
"Landowner" § 27–101
"Tax collector" § 1–101

27–706. ASSESSMENTS TO MAINTAIN AND REPAIR IMPROVEMENTS.

(A) IN GENERAL.

(1) THE BOARD OF DRAINAGE COMMISSIONERS MAY IMPOSE AN ASSESSMENT ON THE LANDOWNER BENEFITED BY THE CONSTRUCTION OF THE DRAINAGE PROJECT TO MAINTAIN THE DRAINAGE PROJECT.

(2) THE ASSESSMENT UNDER THIS SECTION SHALL BE IMPOSED IN THE SAME MANNER AND IN THE SAME PROPORTION AS THE ORIGINAL ASSESSMENT UNDER THIS SUBTITLE, IN AN AMOUNT NOT TO EXCEED 25% OF THE ORIGINAL ASSESSMENT.

(3) THE BOARD OF DRAINAGE COMMISSIONERS SHALL USE THE MONEY THAT IS COLLECTED TO REPAIR AND MAINTAIN THE DRAINAGE PROJECT.

(B) LANDOWNER'S LIABILITY FOR REPAIRS.

(1) THE BOARD OF DRAINAGE COMMISSIONERS SHALL IMPOSE THE COST OF ANY REPAIRS ON A LANDOWNER IF THE REPAIR IS NECESSARY BECAUSE OF:

(I) AN ACT OR NEGLIGENCE OF THE LANDOWNER OR AN AGENT OR EMPLOYEE OF THE LANDOWNER; OR

(II) THE CATTLE, HOGS, OR OTHER LIVESTOCK OF THE LANDOWNER OR OF AN AGENT OR EMPLOYEE OF THE LANDOWNER.

(2) THE COST OF REPAIRS AS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE COLLECTED BY SUIT INSTITUTED BY THE BOARD OF DRAINAGE COMMISSIONERS.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 25, § 121E.

In subsection (a) of this section, the references to a "drainage project" are substituted for the former references to a "[levee,] ditch, drain or watercourse" for brevity and consistency with other similar provisions of this title.

In subsection (a)(1) and the introductory language of subsection (b)(1) of this section, the references to an assessment "impose[d]" are substituted for the former references to an assessment "lev[ied]" for clarity and consistency with other revised articles of the Code.

Also in subsection (a)(1) and the introductory language of subsection (b)(1) of this section, the references to assessment on the "landowner" are substituted for the former references to assessment on the "lands" because a landowner makes the payment and is therefore liable, rather than the "land" being liable.

In subsection (a)(1) of this section, the reference to "maintain[ing]" the drainage project is substituted for the former reference to "keep[ing] … in good repair" for brevity.

In subsection (a)(3) of this section, the former reference to maintaining the drainage project "in perfect order" is deleted as surplusage.

In the introductory language of subsection (b)(1) of this section, the former reference to the landowner "alone" is deleted as surplusage.

In subsection (b)(1)(i) of this section, the reference to "landowner" is substituted for the former reference to "owner of any land through which such improvement is constructed" for brevity and consistency with other similar provisions of this title.

Defined terms: "Board of drainage commissioners" § 27–101
"Landowner" § 27–101

27–707. ASSISTANCE FROM FEDERAL GOVERNMENT.

(A) IN GENERAL.

A DRAINAGE DISTRICT MAY USE ANY LOAN OR OTHER ASSISTANCE FROM THE FEDERAL GOVERNMENT FOR DRAINAGE OR RECLAMATION WORK.

(B) ISSUANCE OF BONDS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, TO FACILITATE ANY COOPERATIVE CONSTRUCTION PLAN AGREED TO BY THE FEDERAL GOVERNMENT AND ANY DRAINAGE DISTRICT, THE BOARD OF DRAINAGE COMMISSIONERS MAY ISSUE BONDS OF THE DRAINAGE DISTRICT IN THE FORM AND MATURITIES REQUIRED BY THE FEDERAL GOVERNMENT.

(2) A CONTRACT OR AGREEMENT BETWEEN THE DRAINAGE DISTRICT AND THE FEDERAL GOVERNMENT FOR COOPERATIVE CONSTRUCTION WORK IS SUBJECT TO APPROVAL BY A MAJORITY OF THE LANDOWNERS OF THE DRAINAGE DISTRICT.

(C) DUTY OF STATE TO REQUEST FEDERAL COOPERATION.

STATE OFFICIALS SHALL SOLICIT THE COOPERATION OF THE FEDERAL GOVERNMENT TO DRAIN AND RECLAIM AGRICULTURE LANDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 121G.

In subsection (a) of this section, the reference to a drainage district using "any loan or other assistance from the federal government" is substituted for the former reference to "[i]n the event that the United States government makes provisions for loans … or provides for such work to be done in whole or in part, under the supervision of its officials" for brevity.

Also in subsection (a) of this section, the reference to the drainage district "us[ing]" any assistance is substituted for the former reference to "avail[ing] themselves of such provisions" for brevity.

Also in subsection (a) of this section, the former reference to "at any time" is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to facilitating the "carrying out of" an agreement is deleted as surplusage.

In subsection (b)(2) of this section, the former reference to the landowners "giv[ing] such contract their written" approval is deleted as surplusage.

In subsection (c) of this section, the reference to the "federal government" is substituted for the former reference to "the various bureaus of the United States" for brevity.

Also in subsection (c) of this section, the former reference to "prosecuting" the drainage and reclaiming of agricultural lands is deleted as surplusage.

Defined terms: "Board of drainage commissioners" § 27–101
"Drainage district" § 27–101
"Landowner" § 27–101
"State" § 1–101

27–708. DRAINAGE DISTRICT FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE DRAINAGE DISTRICT FUND.

(B) ESTABLISHED.

THERE IS A DRAINAGE DISTRICT FUND.

(C) PURPOSE OF FUND.

(1) THE PURPOSE OF THE FUND IS TO ENCOURAGE DRAINAGE PROJECTS TO PROMOTE THE DITCHING, DRAINING, LEVEEING, AND RECLAIMING OF WET AND OVERFLOWED LAND THAT CAN BE MADE AVAILABLE FOR AGRICULTURE.

(2) LOANS NOT EXCEEDING $2,000 MAY BE MADE FROM THE FUND FOR A DRAINAGE PROJECT TO PAY THE EXPENSES OF THE SURVEYS, BOARD OF VIEWERS, ADVERTISING, AND ALL OTHER INCIDENTAL FEES AND EXPENSES CONNECTED WITH THE DRAINAGE PROJECT UNTIL THE DRAINAGE DISTRICT IS ESTABLISHED AND THE WORK IS TURNED OVER TO THE BOARD OF DRAINAGE COMMISSIONERS.

(D) CONTENTS OF FUND.

THE SUM OF $10,000 SHALL BE APPROPRIATED FROM MONEY IN THE STATE TREASURY, WHICH IS NOT OTHERWISE APPROPRIATED, TO THE CREDIT OF THE FUND.

(E) DUTIES OF STATE TREASURER AND COMPTROLLER.

WHEN THERE IS MONEY TO THE CREDIT OF THE FUND, THE STATE TREASURER SHALL PAY THE MONEY TO BE LOANED:

(1) ON WARRANT OF THE COMPTROLLER; AND

(2) ON THE RECEIPT OF AN ITEMIZED STATEMENT REQUESTING THE LOAN, ENDORSED BY THE DESIGNATED OFFICER AND PRESIDING OFFICER OF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE ORIGINAL PETITION OF THE DRAINAGE DISTRICT WAS FILED.

(F) REPAYMENT OF LOAN.

THE FUNDS LOANED BY THE STATE SHALL BE RETURNED TO THE STATE TREASURY THROUGH THE COUNTY COMMISSIONERS OR COUNTY COUNCIL, WHO SHALL COLLECT THE AMOUNT LOANED UNDER A PETITION FILED UNDER THIS TITLE FROM:

(1) IF THE PETITION IS NOT ALLOWED, THE PETITIONER OR THE PETITIONER'S SURETY; OR

(2) IF THE DRAINAGE DISTRICT IS ESTABLISHED, THE BOARD OF DRAINAGE COMMISSIONERS OUT OF THE FIRST PROCEEDS OF THE SALE OF THE BONDS OF THE DRAINAGE DISTRICT CHARGED WITH THE LOAN.

(G) LIMIT ON LOAN.

IN ORDER FOR THE FUND TO BE AVAILABLE FOR OTHER PROJECTS, A LOAN TO ONE DRAINAGE DISTRICT MAY NOT BE GREATER THAN THE AMOUNT THAT IS NECESSARY FOR THE USE OF THE DRAINAGE DISTRICT.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid repetition of the phrase "Drainage District Fund".

Subsections (b) though (g) of this section are new language derived without substantive change from former Art. 25, § 121H, as it related to the Drainage District Fund.

In subsection (c)(1) of this section, the reference to "drainage projects" is substituted for the former reference to "enterprises" for clarity and consistency with other similar provisions of this title.

In subsection (e)(2) of this section, the reference to "requesting the loan" is substituted for the former reference to "so requesting" for clarity.

Also in subsection (e)(2) of this section, the reference to the "drainage" district is substituted for the former reference to the "particular" district for clarity.

Also in subsection (e)(2) of this section, the former reference to "statements" is deleted in light of the reference to "statement" and Art. 1, § 8, which provides that the singular generally includes the plural.

In the introductory language of subsection (f) of this section, the reference to a petition filed "under this title" is substituted for the former reference to a petition filed "with them" for clarity.

In subsection (g) of this section, the former reference to the amount "absolutely" necessary is deleted as surplusage.

Also in subsection (g) of this section, the former reference to the Fund being "in circulation" is deleted as included in the reference to the Fund being "available".

Defined terms: "Board of drainage commissioners" § 27–101
"Board of viewers" § 27–101
"County" § 1–101
"Designated officer" § 27–101
"Drainage district" § 27–101
"State" § 1–101

27–709. DUTY OF COUNTY TAX COLLECTOR.

THE COUNTY TAX COLLECTOR, WITHOUT AN ORDER FROM THE BOARD OF DRAINAGE COMMISSIONERS, SHALL PAY:

(1) THE INSTALLMENTS OF INTEREST AT THE TIME AND PLACE AS EVIDENCED BY THE BONDS; AND

(2) THE ANNUAL INSTALLMENTS OF THE PRINCIPAL DUE ON THE BONDS AT THE TIME AND PLACE EVIDENCED BY THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from the twelfth sentence of former Art. 25, § 118, as it related to the duty of the county tax collector.

In the introductory language of this section, the former reference to "provid[ing]" installments is deleted as included in the reference to "pay[ing]" installments.

In item (1) of this section, the former reference to "the coupons attached" to the bonds is deleted for consistency with item (2) of this section.

Defined terms: "Board of drainage commissioners" § 27–101
"Tax collector" § 1–101

27–710. SECURITY BONDS FOR COUNTY TAX COLLECTORS.

THE OFFICIAL BOND OF THE COUNTY TAX COLLECTOR:

(1) SHALL BE LIABLE FOR THE FAITHFUL PERFORMANCE OF THE DUTIES ASSIGNED TO THE OFFICER UNDER THIS SUBTITLE; AND

(2) MAY BE INCREASED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AT THEIR DISCRETION.

REVISOR'S NOTE: This section is new language derived without substantive change from the seventh and eighth sentences of former Art. 25, § 121C.

Defined term: "Tax collector" § 1–101

SUBTITLE 8. MISCELLANEOUS PROVISIONS.

27–801. RIGHT TO OPEN LATERAL DRAINS.

(A) IN GENERAL.

A LANDOWNER THAT HAS BEEN ASSESSED UNDER THIS TITLE FOR THE COST TO CONSTRUCT A DITCH, DRAIN, OR WATERCOURSE MAY USE THE DITCH, DRAIN, OR WATERCOURSE AS AN OUTLET FOR LATERAL DRAINS FROM THE ASSESSED LAND.

(B) PETITION ALLOWED WHEN NO AGREEMENT.

THE OWNER OF THE ASSESSED LAND MAY PETITION THE COUNTY COMMISSIONERS OR COUNTY COUNCIL IF:

(1) THE ASSESSED LAND IS SEPARATED FROM A DITCH, DRAIN, OR WATERCOURSE BY THE LAND OF ANOTHER; AND

(2) THE OWNER OF THE ASSESSED LAND AND THE OTHER LANDOWNER DO NOT AGREE ON THE TERMS AND CONDITIONS UNDER WHICH THE OWNER OF THE ASSESSED LAND MAY ENTER THE PROPERTY OF THE OTHER LANDOWNER AND CONSTRUCT A LATERAL DRAIN OR DITCH.

(C) LATERAL DITCH PART OF DRAINAGE SYSTEM.

A LATERAL DITCH CONSTRUCTED UNDER THIS SECTION SHALL BE:

(1) PART OF THE DRAINAGE SYSTEM;

(2) UNDER THE CONTROL OF THE BOARD OF DRAINAGE COMMISSIONERS; AND

(3) MAINTAINED BY THE BOARD OF DRAINAGE COMMISSIONERS AS PROVIDED UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 121A.

In subsection (b) of this section, the former reference to lands of "others" is deleted as included in the reference to land of "another".

Also in subsection (b) of this section, the former reference to an "ancillary" petition is deleted as surplusage.

Also in subsection (b) of this section, the former reference to filing a petition "in such pending proceeding" is deleted as surplusage.

Also in subsection (b) of this section, the former phrase "and the procedure shall be as now provided by law" is deleted as surplusage.

In subsection (c)(3) of this section, the reference to the lateral ditch being "maintained" is substituted for the former reference to the ditch being "kept in repair" for consistency with other similar provisions of the Code.

Defined terms: "Board of drainage commissioners" § 27–101
"Landowner" § 27–101

SUBTITLE 9. PROHIBITED ACTS.

27–901. OBSTRUCTION OR DAMAGE TO IMPROVEMENTS.

(A) PROHIBITED.

A PERSON MAY NOT DAMAGE, OBSTRUCT, OR BUILD ANY BRIDGE, FENCE, OR FLOODGATE SO AS TO DAMAGE ANY LEVEE, DITCH, DRAIN, OR WATERCOURSE CONSTRUCTED OR IMPROVED UNDER THIS TITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING TWICE THE VALUE OF THE DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth sentence of former Art. 25, § 121E.

In this section, the former references to "injur[y]" are deleted as included in the references to "damage".

In subsection (b) of this section, the reference to a person "who violates this section" is substituted for the former reference to a person "causing such injury" for consistency with other similar provisions of the Code.

Defined term: "Person" § 1–101

27–902. WILLFUL FAILURE TO PAY BONDS.

(A) PROHIBITED.

A COUNTY TAX COLLECTOR MAY NOT WILLFULLY FAIL TO MAKE PROMPT PAYMENTS OF THE INTEREST AND PRINCIPAL ON BONDS ISSUED UNDER THIS TITLE.

(B) PENALTY.

A COUNTY TAX COLLECTOR WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE AND IMPRISONMENT.

(C) CIVIL LIABILITY.

A COUNTY TAX COLLECTOR WHO VIOLATES THIS SECTION IS LIABLE TO THE BOARD OF DRAINAGE COMMISSIONERS OR THE HOLDER OF THE BONDS IN A CIVIL ACTION IN AN AMOUNT EQUAL TO ALL DAMAGES WHICH MAY ACCRUE TO THE BOARD OR BOND HOLDER AS A RESULT OF THE VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from the twelfth sentence of former Art. 25, § 118, as it related to prohibited acts by the county tax collector and related penalties.

In subsection (a) of this section, the phrase "[a] county tax collector may not" willfully fail to make payments is added to affirmatively state that which was only formerly implied.

In subsection (b) of this section, the former reference to the imposition of a fine and imprisonment "in the discretion of the court" is deleted as surplusage.

In subsection (c) of this section, the former phrase "to either or both of which a right of action is hereby given" is deleted as surplusage.

Defined terms: "Board of drainage commissioners" § 27–101
"Tax collector" § 1–101

GENERAL REVISOR'S NOTE TO TITLE

The eleventh sentence of former Art. 25, § 118, which required the sheriff or the county tax collector to pay over to the county treasurer money collected from the assessment imposed under this title, is deleted. The reference to the sheriff is obsolete because the sheriff does not have the authority to collect an assessment. The reference to the county tax collector is unnecessary in light of the revision of this article in which the county tax collector and the county treasurer are the same entity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that after surveying the counties on the Eastern Shore, it appears that there are currently no drainage districts established. None of the counties could definitively state that there have never been drainage districts established in the county. The General Assembly may wish to consider whether the provisions of this title should be deleted as obsolete.

TITLE 28. SALARY STUDY COMMISSIONS.

SUBTITLE 1. ALLEGANY COUNTY SALARY STUDY COMMISSION.

28–101. "COMMISSION" DEFINED.

IN THIS SUBTITLE, "COMMISSION" MEANS THE ALLEGANY COUNTY SALARY STUDY COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 12–101(a) and (b).

Former Art. 24, § 12–101(c), which defined "County Commissioners", is deleted as unnecessary in light of the revision of this subtitle to refer to

the County Commissioners of Allegany County throughout each section for consistency with other similar provisions of this article.

28–102. ESTABLISHED.

THERE IS AN ALLEGANY COUNTY SALARY STUDY COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 24, § 12–102.

No changes are made.

28–103. MEMBERSHIP.

(A) COMPOSITION.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER FROM THE DEMOCRATIC CENTRAL COMMITTEE OF ALLEGANY COUNTY;

(2) ONE MEMBER FROM THE REPUBLICAN CENTRAL COMMITTEE OF ALLEGANY COUNTY;

(3) ONE MEMBER FROM THE ALLEGANY COUNTY CHAMBER OF COMMERCE;

(4) ONE MEMBER FROM THE ALLEGANY–GARRETT COUNTIES FIRE AND RESCUE ASSOCIATION, FROM ALLEGANY COUNTY;

(5) ONE MEMBER FROM THE ALLEGANY COUNTY FARM BUREAU;

(6) ONE MEMBER FROM THE LEAGUE OF WOMEN VOTERS OF ALLEGANY COUNTY; AND

(7) ONE MEMBER FROM THE WESTERN MARYLAND CENTRAL LABOR COUNCIL.

(B) RECOMMENDATIONS FOR APPOINTMENT.

ON OR BEFORE JULY 14, 2016, AND ON OR BEFORE JULY 14 EACH FOURTH YEAR THEREAFTER, THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY SHALL REQUEST THAT EACH ORGANIZATION LISTED IN SUBSECTION

(A) OF THIS SECTION RECOMMEND AN APPOINTEE TO THE COUNTY COMMISSIONERS ON OR BEFORE THE FOLLOWING AUGUST 1.

(C) APPOINTMENT.

(1) THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY SHALL APPOINT THE INDIVIDUAL RECOMMENDED BY EACH ORGANIZATION LISTED IN SUBSECTION (A) OF THIS SECTION.

(2) IF ANY ORGANIZATION FAILS TO MAKE A RECOMMENDATION TO THE COUNTY COMMISSIONERS ON OR BEFORE AUGUST 1, THE COUNTY COMMISSIONERS SHALL APPOINT A SUBSTITUTE PUBLIC MEMBER TO THE COMMISSION TO SERVE THROUGH THE FOLLOWING JANUARY 30.

(3) A MEMBER OF THE COMMISSION APPOINTED UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION MAY NOT BE:

(I) AN ALLEGANY COUNTY OFFICIAL OR EMPLOYEE; OR

(II) AN OFFICIAL OR EMPLOYEE OF ANY OFFICE STUDIED BY THE COMMISSION.

(4) THE COUNTY COMMISSIONERS SHALL MAKE THEIR APPOINTMENTS TO THE COMMISSION FINAL ON OR BEFORE SEPTEMBER 29 OF THE YEAR OF THE RECOMMENDATIONS UNDER SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 12–103(a) through (d).

In the introductory language of subsection (a) of this section, the former reference to the Commission consisting of "7" members is deleted as surplusage.

In subsection (a)(4) of this section, the reference to the member from the "Allegany–Garrett Counties Fire and Rescue Association, from Allegany County" is substituted for the former reference to the member from the "Allegany County Fire and Rescue Association" for accuracy because the name was changed in 1990 to reflect the joining of the two associations.

In subsection (b) of this section, the reference to the "following" August 1 is added for clarity.

Also in subsection (b) of this section, the reference to "[o]n or before July 14, 2016, and on or before July 14" each fourth year thereafter is

substituted for the former reference to "before July 15, 1992, and before July 15" each fourth year thereafter to update the obsolete reference to 1992 and for clarity.

Also in subsection (b) of this section, the former reference to "solicit[ing]" is deleted as included in the reference to "request[ing]".

In subsection (c)(1) of this section, the reference to the "individual" is substituted for the former reference to the "Commission members" for clarity and consistency with § 28–203(d)(1) of this title.

In subsection (c)(2) of this section, the reference to a "public" member is substituted for the former reference to a "citizen" member for clarity.

In subsection (c)(4) of this section, the reference to "on or before September 29 of the year of the recommendations under subsection (b) of this section" is substituted for the former reference to "before September 30, 1992, and before September 30 every 4th year thereafter" to avoid the obsolete reference to 1992 and for clarity.

Defined term: "Commission" § 28–101

28–104. CHAIR.

FROM AMONG ITS MEMBERS, THE COMMISSION SHALL ELECT A CHAIR.

REVISOR'S NOTE: This section formerly was Art. 24, § 12–103(f).

The only changes are in style.

Defined term: "Commission" § 28–101

28–105. QUORUM; MEETINGS; COMPENSATION.

(A) QUORUM.

FIVE MEMBERS OF THE COMMISSION ARE A QUORUM.

(B) MEETINGS.

THE COMMISSION SHALL MEET ON OR BEFORE THE DECEMBER 31 IMMEDIATELY FOLLOWING APPOINTMENT.

(C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES AS AUTHORIZED BY THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, §§ 12–104 and 12–103(e).

In subsection (b) of this section, the reference to "on or before the December 31 immediately following appointment" is substituted for the former reference to "before January 1, 1993, and before January 1 every 4th year thereafter" to avoid the obsolete reference to 1993 and for brevity and clarity.

In subsection (c)(1) of this section, the reference to compensation "as a member of the Commission" is added for clarity.

Defined term: "Commission" § 28–101

28–106. DUTIES OF COMMISSION.

(A) SALARY STUDY.

THE COMMISSION SHALL STUDY THE SALARIES OF:

(1) THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY;

(2) THE ALLEGANY COUNTY BOARD OF EDUCATION;

(3) THE ALLEGANY COUNTY BOARD OF LICENSE COMMISSIONERS;

(4) THE ALLEGANY COUNTY BOARD OF ELECTIONS;

(5) THE JUDGES OF THE ORPHANS' COURT FOR ALLEGANY COUNTY; AND

(6) THE SHERIFF OF ALLEGANY COUNTY.

(B) SALARY RECOMMENDATIONS.

ON OR BEFORE JANUARY 29 OF THE YEAR FOLLOWING APPOINTMENT, THE COMMISSION SHALL MAKE RECOMMENDATIONS TO THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY REGARDING SALARIES OF THE OFFICES LISTED IN SUBSECTION (A) OF THIS SECTION.

(C) MEETING WITH PUBLIC OFFICIALS.

BEFORE THE COMMISSION SUBMITS ITS RECOMMENDATIONS AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL MEET WITH EACH INDIVIDUAL WHO HOLDS AN OFFICE LISTED IN SUBSECTION (A) OF THIS SECTION TO:

(1) ACQUAINT THE COMMISSION WITH THE DUTIES AND RESPONSIBILITIES OF THOSE PUBLIC OFFICIALS;

(2) OBTAIN ANY ADDITIONAL INFORMATION THAT THE COMMISSION BELIEVES WOULD BE HELPFUL TO COMPLETE ITS WORK; AND

(3) PROVIDE AN OPPORTUNITY FOR THE PUBLIC OFFICIALS TO EXPRESS THEIR OPINIONS ABOUT THE APPROPRIATE COMPENSATION FOR THE OFFICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 12–105.

In subsection (b) of this section, the reference to "[o]n or before January 29 of the year following appointment" is substituted for the former reference to "[b]efore January 30, 1993, and before January 30 every 4th year thereafter" to avoid the obsolete reference to 1993 and for brevity and clarity.

In the introductory language of subsection (c) of this section, the reference to submitting recommendations "as provided in subsection (b) of this section" is substituted for the former reference to submitting recommendations "regarding salaries of the offices in subsection (a) of this section to the County Commissioners" for brevity.

Defined term: "Commission" § 28–101

28–107. ESTABLISHMENT OF SALARIES BY COUNTY COMMISSIONERS.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION AND ARTICLE III, § 35 OF THE MARYLAND CONSTITUTION, THE COUNTY COMMISSIONERS OF ALLEGANY

COUNTY, BY LOCAL LAW, SHALL SET THE SALARY FOR EACH OFFICE INCLUDED IN THE RECOMMENDATIONS.

(B) PERMISSIBLE ACTIONS.

THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY MAY ACCEPT, REDUCE, OR REJECT, BUT MAY NOT INCREASE, THE RECOMMENDATIONS OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 12–106.

In subsection (a)(2) of this section, the former phrase "[w]ith respect to a public official" is deleted as unnecessary since Art. III, § 35 of the Maryland Constitution would only apply to the salaries of public officials.

Defined term: "Commission" § 28–101

SUBTITLE 2. WASHINGTON COUNTY SALARY STUDY COMMISSION.

28–201. "COMMISSION" DEFINED.

IN THIS SUBTITLE, "COMMISSION" MEANS THE WASHINGTON COUNTY SALARY STUDY COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 12–201(a) and (b).

Former Art. 24, § 12–201(c), which defined "County Commissioners", is deleted as unnecessary in light of the revision of this subtitle to refer to the County Commissioners of Washington County throughout each section for consistency with other similar provisions of this article.

28–202. ESTABLISHED.

THERE IS A WASHINGTON COUNTY SALARY STUDY COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 24, § 12–202.

No changes are made.

28–203. MEMBERSHIP.

(A) COMPOSITION.

SUBJECT TO SUBSECTIONS (B) AND (D) OF THIS SECTION, THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER FROM THE DEMOCRATIC CENTRAL COMMITTEE OF WASHINGTON COUNTY;

(2) ONE MEMBER FROM THE REPUBLICAN CENTRAL COMMITTEE OF WASHINGTON COUNTY;

(3) ONE MEMBER FROM THE WASHINGTON COUNTY CHAMBER OF COMMERCE;

(4) ONE MEMBER FROM THE WASHINGTON COUNTY FARM BUREAU;

(5) ONE MEMBER FROM THE LEAGUE OF WOMEN VOTERS OF WASHINGTON COUNTY;

(6) ONE MEMBER FROM THE WESTERN MARYLAND CENTRAL LABOR COUNCIL;

(7) ONE MEMBER FROM THE CUMBERLAND VALLEY ASSOCIATED BUILDERS AND CONTRACTORS, INC.;

(8) ONE MEMBER FROM THE JOINT VETERANS COUNCIL OF WASHINGTON COUNTY; AND

(9) ONE AT–LARGE MEMBER SELECTED BY THE WASHINGTON COUNTY RETIRED TEACHERS ASSOCIATION.

(B) QUALIFICATIONS.

EACH MEMBER SHALL BE A REGISTERED VOTER OF WASHINGTON COUNTY WHO IN THE PREVIOUS 4 YEARS HAS VOTED IN AT LEAST TWO ELECTIONS, AT LEAST ONE OF WHICH WAS IN THE GUBERNATORIAL ELECTION YEAR.

(C) RECOMMENDATIONS FOR APPOINTMENT.

ON OR BEFORE MARCH 31, 2016, AND ON OR BEFORE MARCH 31 EACH FOURTH YEAR THEREAFTER, THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY SHALL REQUEST THAT EACH ORGANIZATION LISTED IN SUBSECTION

(A) OF THIS SECTION RECOMMEND AN APPOINTEE TO THE COUNTY COMMISSIONERS ON OR BEFORE THE FOLLOWING MAY 15.

(D) APPOINTMENT.

(1) THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY SHALL APPOINT THE INDIVIDUAL RECOMMENDED BY EACH ORGANIZATION LISTED IN SUBSECTION (A) OF THIS SECTION.

(2) IF AN ORGANIZATION FAILS TO MAKE A RECOMMENDATION TO THE COUNTY COMMISSIONERS ON OR BEFORE JUNE 1, THE MEMBERS WHO HAVE BEEN APPOINTED TO THE COMMISSION SHALL MEET, SOLICIT PROSPECTIVE MEMBERS FROM THE PUBLIC, AND SELECT BY MAJORITY VOTE A QUALIFIED SUBSTITUTE PUBLIC MEMBER TO THE COMMISSION TO SERVE THROUGH THE FOLLOWING DECEMBER 1.

(3) A MEMBER OF THE COMMISSION MAY NOT BE AN ELECTED OFFICIAL OR AN EMPLOYEE OF AN OFFICIAL WHOSE SALARY THE COMMISSION STUDIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 12–203(a), (b), (c)(1), (2), and (5), and (d).

In the introductory language of subsection (a) of this section, the former reference to the Commission consisting of "nine" members is deleted as surplusage.

In subsection (c) of this section, the reference to the "following" May 15 is added for clarity.

Also in subsection (c) of this section, the reference to "[o]n or before March 31, 2016, and on or before March 31" each fourth year thereafter is substituted for the former reference to "before April 1, 1996, and before April 1" each fourth year thereafter to update the obsolete reference to 1996 and for clarity.

Also in subsection (c) of this section, the former reference to "solicit[ing]" is deleted as included in the reference to "request[ing]".

In subsection (d)(1) of this section, the former reference to appointing an individual "to the Commission" is deleted as surplusage.

In subsection (d)(2) of this section, the reference to a "public" member is substituted for the former reference to a "citizen" member for clarity.

Defined term: "Commission" § 28–201

28–204. CHAIR.

FROM AMONG ITS MEMBERS, THE COMMISSION SHALL ELECT A CHAIR.

REVISOR'S NOTE: This section formerly was Art. 24, § 12–203(f).

The only changes are in style.

Defined term: "Commission" § 28–201

28–205. QUORUM; MEETINGS; COMPENSATION; STAFF.

(A) QUORUM.

FIVE MEMBERS OF THE COMMISSION ARE A QUORUM.

(B) MEETINGS.

THE COMMISSION SHALL MEET ON OR BEFORE THE JUNE 30 IMMEDIATELY FOLLOWING APPOINTMENT.

(C) COMPENSATION.

A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION.

(D) STAFF.

THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY SHALL PROVIDE PROFESSIONAL STAFF TO THE COMMISSION AS NECESSARY FOR THE COMMISSION TO ISSUE ITS REPORT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, §§ 12–204 and 12–203(e) and (c)(3).

In subsection (b) of this section, the reference to "on or before the June 30 immediately following appointment" is substituted for the former reference to "before July 1, 1996, and before July 1 every fourth year thereafter" to avoid the obsolete reference to 1996 and for brevity and clarity.

In subsection (c) of this section, the reference to compensation "as a member of the Commission" is added for clarity.

Defined term: "Commission" § 28–201

28–206. PUBLIC HEARING.

(A) IN GENERAL.

THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING EVERY 4 YEARS.

(B) NOTICE.

THE COMMISSION SHALL PUBLISH NOTICE OF EACH HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY.

(C) MONEY FOR NOTICE.

THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY SHALL PROVIDE MONEY NECESSARY FOR THE COMMISSION TO ADVERTISE ITS HEARINGS SO THAT THE PUBLIC RECEIVES SUFFICIENT NOTICE AND AN OPPORTUNITY TO ATTEND AND PRESENT TESTIMONY AT THE HEARINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 12–203(g) and (c)(4).

In subsection (b) of this section, the reference to general circulation "in the county" is added for clarity.

Defined term: "Commission" § 28–201

28–207. DUTIES OF COMMISSION.

(A) SALARY STUDY.

THE COMMISSION SHALL STUDY THE SALARIES OF:

(1) THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY;

(2) THE WASHINGTON COUNTY BOARD OF EDUCATION;

(3) THE WASHINGTON COUNTY BOARD OF LIQUOR LICENSE COMMISSIONERS;

(4) THE JUDGES OF THE ORPHANS' COURT FOR WASHINGTON COUNTY;

(5) THE SHERIFF OF WASHINGTON COUNTY; AND

(6) THE TREASURER OF WASHINGTON COUNTY.

(B) REPORT TO COUNTY COMMISSIONERS.

ON OR BEFORE THE DECEMBER 1 FOLLOWING APPOINTMENT, THE COMMISSION SHALL ISSUE A REPORT THAT CONTAINS RECOMMENDATIONS TO THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY FOR REVIEW AND CONSIDERATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 12–205(a) and (b)(1).

In subsection (b) of this section, the reference to "the December 1 following appointment" is substituted for the former reference to "November 20, 1996, and on or before December 1 each fourth year thereafter" to avoid the obsolete reference to 1996 and for brevity and clarity.

Defined term: "Commission" § 28–201

28–208. REQUIRED CONSIDERATIONS BY COMMISSION.

IN FORMULATING ITS REPORT AND RECOMMENDATIONS, THE COMMISSION SHALL CONSIDER FOR EACH OFFICE:

(1) THE SCOPE OF RESPONSIBILITIES OF THE OFFICE;

(2) THE EDUCATION, SKILLS, ABILITIES, LICENSURE, AND CERTIFICATION REQUIRED TO PERFORM THE DUTIES OF THE OFFICE;

(3) THE SALARIES OF SIMILAR OFFICES IN OTHER JURISDICTIONS;

(4) THE TIME REQUIRED TO PERFORM THE DUTIES OF THE OFFICE;

(5) THE SALARIES OF SUBORDINATE EMPLOYEES UNDER THE DIRECT SUPERVISION OF THE OFFICE;

(6) THE VOLUME OF WORKLOAD OF THE OFFICE; AND

(7) ANY OTHER RELEVANT INFORMATION.

REVISOR'S NOTE: This section formerly was Art. 24, § 12–206.

In item (7) of this section, the former reference to any other information "that the Commission deems" relevant is deleted as surplusage.

The only other changes are in style.

Defined term: "Commission" § 28–201

28–209. ESTABLISHMENT OF SALARIES BY COUNTY COMMISSIONERS.

(A) IN GENERAL.

(1) THIS SUBSECTION DOES NOT APPLY TO THE SALARIES OF THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY OR THE SHERIFF OF WASHINGTON COUNTY.

(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND ARTICLE III, § 35 OF THE MARYLAND CONSTITUTION, THE COUNTY COMMISSIONERS, BY LOCAL LAW, SHALL SET THE SALARY FOR EACH OFFICE INCLUDED IN THE RECOMMENDATIONS.

(B) PERMISSIBLE ACTIONS.

THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY MAY ACCEPT, REDUCE, OR REJECT, BUT MAY NOT INCREASE, THE RECOMMENDATIONS OF THE COMMISSION.

(C) SUBMISSION TO LEGISLATIVE DELEGATION.

ON OR BEFORE THE DECEMBER 15 FOLLOWING APPOINTMENT OF THE COMMISSION, THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY SHALL SUBMIT RECOMMENDATIONS TO THE MEMBERS OF THE GENERAL ASSEMBLY WHO REPRESENT ANY PART OF WASHINGTON COUNTY CONCERNING THE SALARIES OF THE COUNTY COMMISSIONERS AND THE SHERIFF.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, §§ 12–201(d) and 12–205(b)(2) through (4).

In subsection (a)(2)(ii) of this section, the former phrase "[w]ith respect to a public official" is deleted as unnecessary since Art. III, § 35 of the Maryland Constitution would apply only to the salaries of public officials.

In subsection (c) of this section, the reference to "the December 15 following appointment" is substituted for the former reference to "December 15, 1996, and on or before December 15 each fourth year thereafter" to avoid the obsolete reference to 1996 and for brevity and clarity.

Also in subsection (c) of this section, the reference to members "who represent any part" of Washington County is substituted for the former reference to members "whose districts are within or include part" of Washington County for brevity.

Defined term: "Commission" § 28–201

TITLE 29. ST. MARY'S COUNTY HUMAN RELATIONS COMMISSION.

29–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 44(a).

The former reference to "phrases" is deleted as included in the reference to "words".

The only other change is in style.

(B) ALTERNATIVE DISPUTE RESOLUTION.

"ALTERNATIVE DISPUTE RESOLUTION" INCLUDES MEDIATION.

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 44(b).

No changes are made.

(C) COMMISSION.

"COMMISSION" MEANS THE ST. MARY'S COUNTY HUMAN RELATIONS COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 44(d).

No changes are made.

REVISOR'S NOTE TO SECTION:

Former Art. 49B, § 44(c), which defined "Board" to mean the Board of County Commissioners of St. Mary's County, is deleted as unnecessary in light of the revision of this title to refer to the County Commissioners of St. Mary's County throughout each section for consistency with other similar provisions of this article. Similarly, former Art. 49B, § 44(e), which defined "[c]ounty" to mean St. Mary's County, is deleted.

29–102. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

BY ORDINANCE OR RESOLUTION, THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY MAY ESTABLISH A HUMAN RELATIONS COMMISSION FOR THE COUNTY.

(B) PURPOSES.

THE PURPOSES OF THE COMMISSION ARE TO:

(1) PROMOTE UNDERSTANDING AND HARMONY OF RELATIONSHIP AMONG THE PEOPLE OF THE COUNTY THROUGH THE STUDY OF THE NATURE AND CAUSES OF SOCIAL FRICTION AND PREJUDICE;

(2) ADVANCE THE MEANS FOR THE ALLEVIATION OF SOCIAL FRICTION AND PREJUDICE; AND

(3) FURTHER THE AMERICAN IDEAL OF EQUALITY AND JUSTICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 45(a) and (b).

Defined term: "Commission" § 29–101

29–103. MEMBERSHIP.

(A) APPOINTMENT OF MEMBERS.

THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY SHALL:

(1) DETERMINE THE SIZE OF THE COMMISSION;

(2) APPOINT THE MEMBERS OF THE COMMISSION; AND

(3) ENSURE THAT THE MEMBERSHIP OF THE COMMISSION REFLECTS THE DIVERSITY OF THE PEOPLE OF THE COUNTY.

(B) TENURE.

(1) THE TERM OF A MEMBER IS 4 YEARS.

(2) THE TERMS OF THE MEMBERS SHALL BE STAGGERED IN A MANNER DETERMINED BY THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY.

(3) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 47(a) and (b).

In subsection (a)(3) of this section, the reference to the "people of the county" is substituted for the former reference to the "County's population" for clarity.

In subsection (b)(3) of this section, the reference to "member" is substituted for the former reference to "person" for clarity.

Defined term: "Commission" § 29–101

29–104. OFFICERS.

(A) CHAIR AND VICE CHAIR.

FROM AMONG ITS MEMBERS, THE COMMISSION SHALL SELECT A CHAIR AND A VICE CHAIR OF THE COMMISSION.

(B) TENURE.

(1) THE TERMS OF THE CHAIR AND VICE CHAIR ARE 1 YEAR.

(2) A MEMBER MAY NOT SERVE AS THE CHAIR OR VICE CHAIR FOR MORE THAN TWO CONSECUTIVE TERMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 47(c).

In subsection (a) of this section, the phrase "[f]rom among its members" is added for consistency with other revised articles of the Code.

Also in subsection (a) of this section, the former reference to selecting a chair and vice chair "to be the officers" of the Commission is deleted as implicit.

In subsection (b) of this section, the references to "chair" and "vice chair" are substituted for the former references to "an officer of the Commission" for clarity.

In subsection (b)(2) of this section, the reference to "member" is substituted for the former reference to "person" for clarity.

Defined term: "Commission" § 29–101

29–105. COMPENSATION; ADMINISTRATIVE SUPPORT.

(A) COMPENSATION.

A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION.

(B) ADMINISTRATIVE SUPPORT.

THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY MAY APPROPRIATE MONEY FOR THE ADMINISTRATIVE SUPPORT OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 50 and 47(d).

Subsection (a) of this section is revised in standard language for consistency with other revised articles of the Code.

Defined term: "Commission" § 29–101

29–106. MISCELLANEOUS POWERS AND DUTIES.

(A) POWERS.

THE COMMISSION MAY:

(1) PROVIDE ADVICE AND ASSISTANCE RELATED TO THE FILING AND PROCESSING OF GRIEVANCES AND COMPLAINTS OF DISCRIMINATION WITH THE APPROPRIATE FEDERAL AND STATE AGENCIES;

(2) EDUCATE THE COMMUNITY ON THE RIGHTS AND RESPONSIBILITIES OF PEOPLE RELATING TO HOUSING, EMPLOYMENT, AND PUBLIC ACCOMMODATIONS;

(3) ADVOCATE FOR THE REMOVAL OF ALL VESTIGES OF DISCRIMINATION; AND

(4) ASSIST IN NONBINDING ALTERNATIVE DISPUTE RESOLUTION.

(B) DUTIES.

THE COMMISSION SHALL:

(1) USE ITS INFLUENCE AND PERSUASION TO DIRECT THE EFFORTS OF THE COMMUNITY TO SOLVING PROBLEMS THAT MANY TIMES ARE THE BASIC REASONS FOR RACIAL TENSIONS; AND

(2) ENCOURAGE AND ENSURE EQUAL TREATMENT OF ALL PEOPLE, WITHOUT REGARD TO RACE, COLOR, RELIGION, ANCESTRY, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, OR PHYSICAL OR MENTAL DISABILITY, IN COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS RELATED TO HOUSING, EMPLOYMENT, AND PUBLIC ACCOMMODATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 46 and 45(c) and (d).

In the introductory language of subsection (a) of this section, the former phrase "[t]o accomplish the obligation imposed under § 45 of this subtitle" is deleted as surplusage.

In subsection (b)(2) of this section, the reference to "disability" is substituted for the former reference to "handicap" for consistency with federal law and other revised articles of the Code.

Defined terms: "Alternative dispute resolution" § 29–101
"Commission" § 29–101
"State" § 1–101

29–107. REQUEST FOR ALTERNATIVE DISPUTE RESOLUTION.

(A) TIME LIMIT TO FILE WRITTEN REQUEST.

A PERSON SEEKING AN ALTERNATIVE DISPUTE RESOLUTION UNDER THIS TITLE SHALL FILE A WRITTEN REQUEST FOR ALTERNATIVE DISPUTE RESOLUTION WITHIN 6 MONTHS AFTER THE DATE OF THE INCIDENT GIVING RISE TO THE REQUEST.

(B) FILING REQUIREMENTS.

(1) A PERSON WHO SATISFIES THE TIME REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION IS DEEMED TO HAVE COMPLIED WITH THE REQUIREMENTS OF § 20–1004 OF THE STATE GOVERNMENT ARTICLE.

(2) THE COMMISSION MAY PROVIDE A COPY OF A WRITTEN REQUEST FILED UNDER SUBSECTION (A) OF THIS SECTION TO THE MARYLAND COMMISSION ON HUMAN RELATIONS TO VERIFY THE COMPLIANCE OF A PARTY WITH THE REQUIREMENTS OF § 20–1004 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 51.

In subsection (a) of this section, the reference to the date of the "incident giving rise to the request" is substituted for the former reference to the "relevant incident" for clarity.

Also in subsection (a) of this section, the former reference to a person seeking "the involvement of the Commission" is deleted as surplusage.

Also in subsection (a) of this section, the reference to an alternative dispute resolution "under this title" is substituted for the former reference to an alternative dispute resolution "related to an incident within the Commission's jurisdiction" for brevity.

Defined terms: "Alternative dispute resolution" § 29–101
"Commission" § 29–101
"Person" § 1–101

29–108. ALTERNATIVE DISPUTE RESOLUTION.

(A) CONSTRUCTION OF SECTION.

THIS SECTION SUPERSEDES ANY CONTRARY PROVISION OF THE PUBLIC INFORMATION ACT AND THE ST. MARY'S COUNTY OPEN MEETINGS ACT.

(B) CONFIDENTIALITY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION:

(I) ALL ACTIVITIES OF THE COMMISSION THAT RELATE TO AN ALTERNATIVE DISPUTE RESOLUTION, A GRIEVANCE, OR A COMPLAINT OF DISCRIMINATION SHALL BE CONDUCTED IN CONFIDENCE AND WITHOUT PUBLICITY; AND

(II) THE COMMISSION MAY MEET IN CLOSED SESSION WHEN DEALING WITH AN ALTERNATIVE DISPUTE RESOLUTION, A GRIEVANCE, OR A COMPLAINT OF DISCRIMINATION.

(2) IF ALL PARTIES INVOLVED IN AN ALTERNATIVE DISPUTE RESOLUTION, A GRIEVANCE, OR A COMPLAINT OF DISCRIMINATION CONSENT IN WRITING, THE ACTIVITIES OF THE COMMISSION RELATED TO THE ALTERNATIVE DISPUTE RESOLUTION, GRIEVANCE, OR COMPLAINT OF DISCRIMINATION MAY BE CONDUCTED PUBLICLY.

(3) EXCEPT AS PROVIDED UNDER § 29–107 OF THIS TITLE, THE COMMISSION SHALL HOLD CONFIDENTIAL ALL INFORMATION CONCERNING AN ALTERNATIVE DISPUTE RESOLUTION, A GRIEVANCE, OR A COMPLAINT OF DISCRIMINATION, INCLUDING THE IDENTITIES OF THE PARTIES INVOLVED.

(4) THE COMMISSION SHALL HOLD CONFIDENTIAL ANY INFORMATION AND RECORDS OBTAINED BY A PREDECESSOR COUNTY BODY THAT WAS AUTHORIZED TO PERFORM A FUNCTION SIMILAR TO THAT OF THE COMMISSION BEFORE JULY 1, 1997.

(C) ADMISSIBILITY OF RECORDS OF PROCEEDINGS AS EVIDENCE.

(1) INFORMATION RELATED TO THE ACTIVITIES OR INVOLVEMENT OF THE COMMISSION IN AN ALTERNATIVE DISPUTE RESOLUTION, A GRIEVANCE, OR A COMPLAINT OF DISCRIMINATION MAY NOT BE ADMITTED AS EVIDENCE IN ANY ADMINISTRATIVE PROCEEDING OR LITIGATION.

(2) THE RECORDS OF THE COMMISSION MAY NOT BE DISCOVERED IN ANY ADMINISTRATIVE PROCEEDING OR LITIGATION.

(D) PUBLIC INSPECTION OF RECORDS.

(1) EXCEPT AS PROVIDED UNDER § 29–107 OF THIS TITLE AND PARAGRAPH (2) OF THIS SUBSECTION, INFORMATION OR RECORDS RELATED TO THE ACTIVITIES OR INVOLVEMENT OF THE COMMISSION IN AN ALTERNATIVE DISPUTE RESOLUTION, A GRIEVANCE, OR A COMPLAINT OF DISCRIMINATION ARE NOT SUBJECT TO PUBLIC INSPECTION UNDER THE MARYLAND PUBLIC INFORMATION ACT.

(2) STATISTICAL INFORMATION MAY BE MADE AVAILABLE FOR PUBLIC INSPECTION UNDER § 10–624(E) OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 48.

In subsection (a) of this section, the former reference to the "Maryland" Public Information Act is deleted for accuracy.

In subsection (b)(1)(ii) of this section, the former reference to an "executive" session is deleted as included in the reference to a "closed" session.

In subsection (b)(4) of this section, the reference to a predecessor county body authorized to perform a function before "July 1, 1997" is substituted for the former reference to "the effective date of this subtitle" to reflect the date that the original enactment, Ch. 543 of the Acts of 1997, took effect.

Defined terms: "Alternative dispute resolution" § 29–101
"Commission" § 29–101

29–109. ANNUAL REPORT.

(A) REQUIRED.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL FILE WITH THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY A COMPREHENSIVE REPORT OF ITS ACTIVITIES AT LEAST ONCE EVERY 12 MONTHS.

(B) CONFIDENTIAL INFORMATION.

THE COMMISSION MAY NOT REVEAL ANY CONFIDENTIAL INFORMATION IN THE REPORT TO THE COUNTY COMMISSIONERS.

REVISOR'S NOTE: This section formerly was Art. 49B, § 49.

The only changes are in style.

Defined term: "Commission" § 29–101

TITLE 30. BALTIMORE CITY POLICE DEPARTMENT DEATH RELIEF FUND.

30–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) BOARD.

"BOARD" MEANS THE BOARD OF TRUSTEES FOR THE FUND.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Board of Trustees".

Defined term: "Fund" § 30–101

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE BALTIMORE CITY POLICE DEPARTMENT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Baltimore City Police Department".

(D) FUND.

"FUND" MEANS THE BALTIMORE CITY POLICE DEPARTMENT DEATH RELIEF FUND.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Baltimore City Police Department Death Relief Fund".

30–102. ESTABLISHED.

(A) IN GENERAL.

THERE IS A BALTIMORE CITY POLICE DEPARTMENT DEATH RELIEF FUND.

(B) STATUS.

(1) THE FUND IS AN INSTRUMENTALITY OF THE STATE.

(2) THE FUND IS THE SUCCESSOR RELIEF FUND TO ANY PREVIOUS RELIEF FUND ADMINISTERED BY THE POLICE COMMISSIONER OF BALTIMORE CITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 16–101.

In subsection (a) of this section, the former reference to the Fund being "hereby established" is deleted as surplusage.

In subsection (b)(2) of this section, the reference to the Fund being "the successor relief fund to any previous relief fund" is substituted for the former reference to the Fund being "the successor of the relief fund heretofore" for clarity.

Defined terms: "Fund" § 30–101
"State" § 1–101

30–103. ADMINISTRATION.

THE BOARD SHALL ADMINISTER THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 16–104.

The former reference to the Fund "established under this article" is deleted as surplusage.

Defined terms: "Board" § 30–101
"Fund" § 30–101

30–104. BOARD OF TRUSTEES.

(A) COMPOSITION.

(1) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS ELECTED FROM THE DEPARTMENT:

(I) ONE MEMBER OF THE RANK OF MAJOR OR HIGHER;

(II) ONE MEMBER OF THE RANK OF DEPUTY MAJOR;

(III) ONE MEMBER OF THE RANK OF LIEUTENANT;

(IV) ONE MEMBER OF THE RANK OF SERGEANT;

(V) THREE PATROL OFFICERS; AND

(VI) ONE CIVILIAN EMPLOYEE.

(2) THE DIRECTOR OF FISCAL AFFAIRS DIVISION OF THE DEPARTMENT SERVES AS AN EX OFFICIO MEMBER.

(B) ELECTIONS; TENURE.

(1) THE ELECTED MEMBERS OF THE BOARD SHALL BE ELECTED AT LARGE BY THE OFFICERS AND CIVILIAN EMPLOYEES OF THE DEPARTMENT.

(2) (I) THE TERM OF AN ELECTED MEMBER IS 4 YEARS.

(II) ELECTIONS ARE HELD EVERY 2 YEARS WITH THE TERMS OF THE MAJOR OR HIGHER RANKED MEMBER, SERGEANT, AND TWO PATROL OFFICERS ENDING AT ALTERNATE 2–YEAR PERIODS WITH THOSE OF THE DEPUTY MAJOR, LIEUTENANT, ONE PATROL OFFICER, AND THE CIVILIAN EMPLOYEE.

(III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS ELECTED.

(3) (I) NOMINATIONS FOR ELECTED MEMBERS SHALL BE SUBMITTED IN WRITING TO THE SECRETARY OF THE BOARD AT LEAST 15 DAYS BEFORE THE ELECTION.

(II) 1. NOMINATIONS FOR ELECTED MEMBERS SHALL BE SIGNED BY AT LEAST 20 OFFICERS OR CIVILIAN EMPLOYEES OF THE DEPARTMENT.

2. NO MORE THAN HALF OF THE INDIVIDUALS SIGNING THE NOMINATION MAY BE FROM THE SAME DISTRICT OR UNIT.

(4) THE NOMINEES WHO CORRESPOND TO THE VACANCIES ON THE BOARD AND RECEIVE THE HIGHEST NUMBER OF VOTES SHALL BE DECLARED ELECTED.

(5) ELECTIONS MAY BE HELD CONCURRENT WITH THE ELECTION OF MEMBERS TO THE PERSONNEL SERVICE BOARD AS PROVIDED IN THE CODE OF PUBLIC LOCAL LAWS OF BALTIMORE CITY, 1979 EDITION, § 16–12.

(C) VACANCIES.

(1) A VACANCY ON THE BOARD SHALL BE FILLED FOR THE REMAINDER OF THE UNEXPIRED TERM FROM THE NOMINEES OF COMPARABLE RANK OR STATUS WHO RECEIVED THE NEXT HIGHEST NUMBER OF VOTES IN DESCENDING ORDER FROM THE NOMINEES ACTUALLY ELECTED DURING THE PRECEDING ELECTION.

(2) IF THERE IS NO NOMINEE AVAILABLE AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL ELECT FROM THE DEPARTMENT AT LARGE A MEMBER OF THE SAME RANK OR STATUS TO SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM.

(D) OATH.

(1) A BOARD MEMBER SHALL TAKE AN OATH OF OFFICE THAT THE MEMBER WILL DILIGENTLY AND FAITHFULLY PERFORM THE DUTIES OF A MEMBER IN ACCORDANCE WITH LAW.

(2) THE OATH SHALL BE ADMINISTERED BY THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY, SUBSCRIBED BY THE BOARD MEMBER MAKING IT, WITHIN 10 DAYS AFTER THE BOARD MEMBER'S TERM BEGINS, AND FILED IN THE CLERK'S OFFICE.

(E) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A BOARD MEMBER:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD; BUT

(2) SHALL BE REIMBURSED FROM THE FUND FOR EXPENSES.

(F) MAJORITY VOTE.

(1) EACH BOARD MEMBER IS ENTITLED TO ONE VOTE.

(2) FIVE MEMBERS ARE A QUORUM.

(3) THE BOARD SHALL ACT BY MAJORITY VOTE.

(4) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT OFFICERS.

(G) REGULATIONS.

THE BOARD MAY ADOPT RULES AND REGULATIONS PROVIDING FOR:

(1) THE AMOUNT OF BENEFITS;

(2) THE ADMINISTRATION OF THE FUND; AND

(3) THE TRANSACTION OF THE BOARD'S BUSINESS.

(H) LEGAL ADVISER.

(1) THE LEGAL ADVISER TO THE DEPARTMENT IS THE LEGAL ADVISER TO THE BOARD.

(2) ON REQUEST OF THE BOARD, THE LEGAL ADVISER SHALL ASSIST AND ADVISE THE BOARD DURING THE CONDUCT OF A HEARING.

(I) POWER TO SUE AND BE SUED.

THE BOARD MAY SUE AND BE SUED.

(J) OFFICIAL SEAL.

THE BOARD SHALL ADOPT AN OFFICIAL SEAL.

(K) LIABILITY FOR CONDUCT.

A BOARD MEMBER:

(1) MAY BE LIABLE ONLY FOR THE MEMBER'S OWN NEGLIGENCE OR DEFAULT; AND

(2) IS NOT LIABLE FOR THE CONDUCT OF ANY PREDECESSOR OR COTRUSTEE OR ANY AGENT, REPRESENTATIVE, CUSTODIAN, OR DEPOSITORY SELECTED WITH REASONABLE CARE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 16–105(a) through (e), (g) through (i), and the fifth sentence of (f).

In this section, the references to "Board member" and "member" are substituted for the former references to "trustee[s]" for consistency with the terminology used throughout this title.

In the introductory language of subsection (a)(1) of this section, the reference to members elected "from the Department" is added for clarity.

Also in the introductory language of subsection (a)(1) of this section, the former reference to "nine" members is deleted as surplusage.

In subsection (a)(2) of this section, the reference to "[t]he Director of Fiscal Affairs serv[ing] as an ex officio member" is substituted for the former statement "[w]ith the exception of the Director of Fiscal Affairs, members of the board of trustees shall be elected" for clarity.

In subsection (b) of this section, the former reference to "[t]he first election … be[ing] held during the year of enactment of this title, at which time the deputy major, lieutenant, and one patrolman (the patrolman member of the board of trustees having held office the longest period of time will stand for election) and the civilian member will be elected." is deleted as obsolete in light of the fact that the provision refers only to the first election that occurred after the initial enactment of Chapter 370 of the Acts of 1971.

In subsection (b)(1) of this section, the reference to the "elected" members of the Board is added for clarity.

Also in subsection (b)(1) of this section, the reference to members being elected "by the officers and civilian employees of the Department" is added for clarity and consistency with the terminology used throughout this title.

In subsection (b)(2)(iii) of this section, the former reference to a successor being "qualified" is deleted as implicit in the reference to a successor being "elected".

In subsection (b)(3)(i) of this section, the reference to nominations "for elected members" is added for clarity.

Also in subsection (b)(3)(i) of this section, the former reference to nominations being submitted "[i]n years when elections are to be held" is deleted as implicit in the reference to elections.

Also in subsection (b)(3)(i) of this section, the former reference to nominations being "received by the secretary" is deleted as implicit in the requirement that they must be submitted to the secretary.

In subsection (b)(3)(ii)1 of this section, the reference to nominations being signed by "officers or civilian employees" is substituted for the former reference to "members" for clarity and consistency with the terminology used throughout this title.

In subsection (b)(3)(ii)2 of this section, the reference to "individuals" is substituted for the former reference to "persons" because only a human being and not the other entities included in the definition of "person" can sign a nomination.

In subsection (b)(4) of this section, the reference to the nominees "who correspond to the vacancies on the Board" is substituted for the former reference to the nominees "corresponding with the number of members to be elected" for clarity.

In subsection (c)(1) of this section, the reference to "[a] vacancy on the Board" being filled is substituted for the former reference to "[i]n the event an elected member dies, resigns, retires, or ceases to be a member of the Department, the member's vacated position" being filled for brevity.

Also in subsection (c)(1) of this section, the reference to filling a vacancy "for the remainder of the unexpired term" is substituted for the former reference to the "member [serving] the uncompleted term of the member whom he replaces" for brevity and consistency with other similar provisions of the Code.

In subsection (c)(2) of this section, the reference to serving for "the remainder of the unexpired term" is substituted for the former reference to serving "instead until the next scheduled election" for consistency with other similar provisions of the Code.

Also in subsection (c)(2) of this section, the former phrase "at which time a replacement shall be elected in accordance with the foregoing procedure" is deleted as implicit in the election provisions provided for in subsection (b) of this section.

In subsection (e)(1) of this section, the reference to a Board member "not receiv[ing] compensation as a member of the Board" is substituted for the

former reference to a member "serv[ing] without compensation" for consistency with other similar provisions of the Code.

In subsection (e)(2) of this section, the former reference to "all necessary" expenses is deleted as surplusage.

Also in subsection (e)(2) of this section, the former reference to expenses "they may incur through service on the board" is deleted as surplusage.

In subsection (f)(2) of this section, the former reference to a quorum "for all purposes" is deleted as surplusage.

In subsection (f)(4) of this section, the reference to the Board electing officers "[f]rom among its members" is added for consistency with other similar provisions of the Code.

In the introductory language of subsection (g) of this section, the former reference to regulations "consistent with this title" is deleted as surplusage.

In subsection (g)(2) of this section, the former reference to the Fund "created by this title" is deleted as surplusage.

In subsection (i) of this section, the former reference to the authority of the Board to sue and be sued "as an entity in any court of this State or any other state or federal jurisdiction" is deleted for consistency with other similar terminology in the Code.

Defined terms: "Board" § 30–101
"Department" § 30–101
"Fund" § 30–101

30–105. PROCEEDINGS.

(A) IN GENERAL.

(1) IF REQUESTED, THE BOARD SHALL PROVIDE AN OPPORTUNITY FOR A FULL HEARING, INCLUDING THE RIGHT TO COUNSEL AND CROSS–EXAMINATION FOR ALL INTERESTED PARTIES, IN A PROCEEDING REGARDING ANY BENEFIT PROVIDED UNDER THIS TITLE.

(2) (I) THROUGH THE MEMBER PRESIDING AT A HEARING, THE BOARD MAY:

1. ADMINISTER OATHS; AND

2. APPLY TO THE CIRCUIT COURT OF ANY COUNTY FOR A SUBPOENA FOR A WITNESS.

(II) IF THE BOARD APPLIES FOR A SUBPOENA UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE CIRCUIT COURT SHALL GRANT THE SUBPOENA IF THE COURT FINDS THAT:

1. THE EVIDENCE OF THE WITNESS IS NECESSARY TO PROVIDE A FAIR HEARING; AND

2. REQUIRING ATTENDANCE BY THE WITNESS WOULD NOT BE OPPRESSIVE.

(B) RECORD OF PROCEEDINGS.

(1) THE BOARD SHALL KEEP A RECORD OF ITS PROCEEDINGS.

(2) THE RECORD SHALL BE OPEN TO PUBLIC INSPECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through third sentences of former Art. 24, § 16–105(f).

In subsection (a)(1) of this section, the former reference to a benefit "or any part thereof" is deleted as surplusage.

Defined terms: "Board" § 30–101
"County" § 1–101

30–106. ASSETS OF FUND.

(A) COMPOSITION; EXPENDITURES.

(1) THE BOARD MAY ACCEPT AND SHALL CREDIT TO THE FUND ANY GIFTS, DEVISES, AND BEQUESTS TO BE ADMINISTERED IN ACCORDANCE WITH THIS TITLE.

(2) THE BOARD MAY PAY FROM THE FUND THE EXPENSES NECESSARY TO CARRY OUT THIS TITLE, INCLUDING:

(I) ORGANIZATION, CLERICAL, AND OFFICE EXPENSES; AND

(II) FOR THE CONDUCT OF ITS PROCEEDINGS, INCLUDING EXPENSES FOR INVESTIGATION, MEDICAL OR OTHER ADVICE, AND STENOGRAPHIC SERVICE.

(B) ASSESSMENT BY PAYROLL DEDUCTION.

(1) (I) IF THE BALANCE OF THE FUND FALLS BELOW $75,000, THE BOARD MAY ASSESS A FEE NOT TO EXCEED 10 CENTS PER WEEK ON EACH OFFICER AND CIVILIAN EMPLOYEE OF THE DEPARTMENT.

(II) THE FEE SHALL BE COLLECTED THROUGH PAYROLL DEDUCTIONS AND CREDITED TO THE FUND.

(III) 1. THE BOARD SHALL DETERMINE THE PERIOD OF TIME OVER WHICH THE FEE WILL BE COLLECTED.

2. THE ASSESSMENT SHALL END WHEN THE BALANCE OF THE FUND REACHES $200,000 AND MAY ONLY BE REIMPOSED WHEN THE BALANCE OF THE FUND FALLS BELOW $75,000.

(2) (I) ON WRITTEN REQUEST OF AT LEAST 10% OF THE TOTAL NUMBER OF OFFICERS AND CIVILIAN EMPLOYEES OF THE DEPARTMENT, THE ACTION OF THE BOARD REQUIRING AN ASSESSMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBMITTED TO A SECRET BALLOT VOTE OF THE OFFICERS AND CIVILIAN EMPLOYEES OF THE DEPARTMENT.

(II) IF A MAJORITY OF THE VOTES CAST ARE AGAINST THE ASSESSMENT, THE ASSESSMENT MAY NOT BE IMPOSED.

(3) (I) IF THE FUND IS NOT REPLENISHED, THE FUND SHALL BE USED UNTIL EXHAUSTED.

(II) ONCE THE ASSETS OF THE FUND HAVE BEEN EXHAUSTED, THE FUND SHALL CEASE.

(C) INVESTMENT OF ASSETS.

(1) THE BOARD SHALL DEPOSIT SUFFICIENT MONEY FROM THE FUND IN FEDERALLY INSURED SAVINGS ACCOUNTS TO MEET THE ANTICIPATED BENEFIT PAYMENTS FOR EACH YEAR.

(2) THE BOARD MAY INVEST THE REMAINING ASSETS OF THE FUND IN ANY OTHER MANNER THE BOARD CONSIDERS PRUDENT.

(D) AUDIT; ANNUAL REPORT.

(1) THE FUND SHALL BE AUDITED REGULARLY BY THE LEGISLATIVE AUDITOR AND FROM TIME TO TIME BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT THAT THE BOARD RETAINS.

(2) ON OR BEFORE MAY 1 OF EACH YEAR, THE BOARD SHALL PUBLISH A REPORT FOR THE PREVIOUS CALENDAR YEAR THAT INCLUDES THE FISCAL TRANSACTIONS OF THE FUND AND A DETAILED BALANCE SHEET.

(3) (I) THE BOARD SHALL PROVIDE COPIES OF THE REPORT TO ALL MEMBERS OF THE BOARD BY ELECTRONIC MAIL AND POST COPIES OF THE REPORT ON THE DEPARTMENT'S INTRANET.

(II) THE BOARD SHALL KEEP COPIES OF THE REPORT ON FILE AND MAKE THE REPORT AVAILABLE TO ANY OFFICER OR CIVILIAN EMPLOYEE OF THE DEPARTMENT OR POTENTIAL BENEFICIARY OF ANY DECEASED OFFICER OR CIVILIAN EMPLOYEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 16–106 and the fourth sentence of § 16–605(f).

In subsection (a) of this section, the former reference to "[t]he Fund provided by this title [consisting] of the assets turned over to the board of trustees by the Police Commissioner of Baltimore City from the Relief Fund, and any increments from gifts or contributions from any source, less benefit payments and expenses" is deleted as obsolete because it refers to the initial transfer of funds that took place when the Fund was first established under Chapter 217 of the Acts of 1967.

In subsection (a)(1) of this section, the requirement that the Board "shall credit to the Fund" is added for clarity.

Also in subsection (a)(1) of this section, the former reference to "any person, government agency, or public or private corporation or association" is deleted as unnecessary because it is inclusive of all the entities that can give a gift, devise, or bequest.

Also in subsection (a)(1) of this section, the former reference to "receiv[ing]" gifts is deleted as included in the reference to "accept[ing]" gifts.

In the introductory language of subsection (a)(2) of this section, the former reference to expenses "as in their judgment may be" necessary is deleted as surplusage.

In subsection (a)(2)(ii) of this section, the former phrase "and the like" is deleted as surplusage.

In subsection (b)(1) of this section, the references to "the balance" of the Fund are added for clarity.

In subsection (b)(1)(i) of this section, the reference to the Board "assess[ing] a fee" is substituted for the former reference to "requir[ing] the collection … of an amount" for clarity.

In subsection (b)(1)(iii)1 of this section, the reference to the Board "determin[ing] the period of time over which the fee will be collected" is substituted for the former phrase "for such time or times as the board may require" for clarity.

In subsection (b)(1)(iii)2 of this section, the reference to the assessment "only be[ing] reimposed when the balance of the Fund" falls below $75,000 is substituted for the former reference to the assessment "not again be[ing] required until the Fund again" falls below $75,000 for clarity.

In subsection (b)(2)(i) of this section, the reference to "officers and civilian employees" is substituted for the former reference to "personnel" for consistency with the terminology used throughout this title.

In subsection (b)(3)(i) of this section, the former reference to "pay[ing] the benefits herein" is deleted as surplusage.

Also in subsection (b)(3)(i) of this section, the former reference to the fund not being replenished "by assessment" is deleted as surplusage.

In subsection (b)(3)(ii) of this section, the phrase "[o]nce the assets of the Fund have been exhausted" is substituted for the former word "whereupon" for clarity.

In subsection (c)(1) of this section, the former reference to an amount "at least" sufficient is deleted as implicit in the word "sufficient".

In subsection (d)(1) of this section, the former reference to the "accounts of the" Fund is deleted as implicit in the reference to "the Fund".

In subsection (d)(2) of this section, the reference to a report "for the previous calendar year that includes the fiscal transactions of the Fund

and a detailed balance sheet" is substituted for the former reference to a report "including the fiscal transactions of the Fund for the year ending the preceding December 31, and a detailed balance sheet as of the said preceding December 31" for brevity and clarity.

Also in subsection (d)(2) of this section, the former reference to a report being published "annually" is deleted as unnecessary in light of the requirement that the report be published on or before May 1 of "each year".

In subsection (d)(3)(ii) of this section, the reference to the Board "keep[ing] copies of the report on file" is substituted for the former reference to the Board "fil[ing] with its own records one or more copies" for clarity.

Also in subsection (d)(3)(ii) of this section, the former reference to the report being made available to any officer or civilian employee of the Department or potential beneficiary of any deceased officer or civilian employee "wishing to inspect the same" is deleted as surplusage.

Defined terms: "Board" § 30–101
"Department" § 30–101
"Fund" § 30–101

30–107. PAYMENT OF DEATH BENEFITS.

(A) DEATH IN LINE OF DUTY.

THE FUND SHALL PAY SPECIAL DEATH BENEFITS, AS PROVIDED IN THIS TITLE, FOR AN OFFICER OR A CIVILIAN EMPLOYEE OF THE DEPARTMENT WHOSE DEATH IS PROXIMATELY CAUSED BY INJURIES SUSTAINED OR BY HARM INFLICTED ON THE BODY IN THE COURSE OF THE PERFORMANCE OF THE OFFICER'S OR EMPLOYEE'S DUTIES.

(B) DEATH NOT IN LINE OF DUTY.

THE FUND SHALL PAY DEATH BENEFITS, AS PROVIDED IN THIS TITLE, FOR AN ACTIVE OFFICER OR A CIVILIAN EMPLOYEE OF THE DEPARTMENT WHOSE DEATH IS NOT PROXIMATELY CAUSED BY INJURIES SUSTAINED OR BY HARM INFLICTED ON THE BODY IN THE COURSE OF THE PERFORMANCE OF THE OFFICER'S OR EMPLOYEE'S DUTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 16–102.

In subsection (a) of this section, the former reference to benefits paid "on account of the death of" an officer or civilian employee is deleted as implicit in the reference to paying "death benefits".

In subsection (b) of this section, the former reference to "special" death benefits is deleted as surplusage.

Defined terms: "Department" § 30–101
"Fund" § 30–101

30–108. BENEFITS AND BENEFICIARIES.

(A) AMOUNT OF BENEFIT.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION:

(I) THE AMOUNT OF BENEFIT PAYABLE UNDER § 30–107(A) OF THIS TITLE IS $10,000; AND

(II) THE AMOUNT OF BENEFIT PAYABLE UNDER § 30–107(B) OF THIS TITLE IS $500.

(2) THE BOARD MAY PROSPECTIVELY AND UNIFORMLY ESTABLISH BY RESOLUTION AN AMOUNT OF BENEFIT PAYABLE UNDER THIS TITLE THAT IS GREATER THAN THE AMOUNT SPECIFIED IN THIS SUBSECTION.

(3) THE BENEFIT PROVIDED FOR UNDER THIS TITLE SHALL BE IN ADDITION TO ALL OTHER BENEFITS PROVIDED BY LAW OR BY VOLUNTARY ACTION OF ANY PERSON.

(B) BENEFICIARIES.

(1) ON THE DEATH OF AN OFFICER OR A CIVILIAN EMPLOYEE OF THE DEPARTMENT, THE BENEFIT PROVIDED FOR UNDER THIS TITLE IS PAYABLE TO THE FOLLOWING INDIVIDUALS:

(I) THE SURVIVING SPOUSE;

(II) IF THERE IS NO SURVIVING SPOUSE, TO THE MINOR CHILDREN, IN EQUAL SHARES;

(III) IF THERE IS NO SURVIVING SPOUSE OR MINOR CHILDREN, TO THE DEPENDENT PARENTS, IN EQUAL SHARES; OR

(IV) IF THERE IS NO SURVIVING SPOUSE, MINOR CHILD, OR DEPENDENT PARENT, TO ANY OTHER DEPENDENTS OR THE ESTATE OF THE OFFICER OR EMPLOYEE.

(2) ANY BENEFIT PAID UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION SHALL:

(I) NOT EXCEED THE MAXIMUM BENEFIT PROVIDED IN SUBSECTION (A) OF THIS SECTION; AND

(II) BE PAID IN PROPORTIONS DETERMINED BY THE BOARD.

(3) (I) ANY BENEFIT PAYABLE TO A MINOR SHALL BE MADE TO THE MINOR'S LEGAL GUARDIAN IN THE STATE.

(II) IF A BENEFIT IS PAYABLE TO A MINOR WHO DOES NOT HAVE A LEGAL GUARDIAN IN THE STATE, THE BENEFIT IS PAYABLE ON BEHALF OF THE MINOR TO A PERSON DETERMINED BY THE BOARD UNDER CONDITIONS SET BY THE BOARD.

(4) A BENEFICIARY'S ELIGIBILITY IS NOT AFFECTED BY WHETHER THE DECEASED OFFICER OR CIVILIAN EMPLOYEE PAID INTO THE FUND.

(C) BENEFITS NOT SUBJECT TO PROCESS.

THE BENEFIT PROVIDED FOR UNDER THIS TITLE IS NOT SUBJECT TO:

(1) EXECUTION, GARNISHMENT, ATTACHMENT, OR ANY OTHER PROCESS; AND

(2) ASSIGNMENT UNTIL THE BENEFITS ARE PAID TO THE BENEFICIARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 16–103.

In subsection (a)(1)(i) of this section, the reference to a benefit payable "under § 30–107(a) of this title" is substituted for the former reference to a benefit payable "on account of the death of an officer or a civilian employee whose death is proximately caused by injuries sustained or by harm inflicted upon the body in the course of the performance of their duty" for brevity. Similarly, in subsection (a)(1)(ii) of this section, the reference to a benefit payable "under § 30–107(b) of this title" is substituted for the former reference to a benefit payable "on account of

the death of an officer or a civilian employee whose death is not proximately caused by injuries sustained or by harm inflicted upon the body in the course of the performance of their duty".

In subsection (a)(2) of this section, the former reference to a resolution "adopted" is deleted as implicit in the reference to "establish[ing]" by resolution.

In subsections (a)(3) and (b)(3)(ii) of this section, the former references to "persons" are deleted in light of the references to "person" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (b) of this section, the former phrase "if any" is deleted as surplusage.

In subsection (b)(1) of this section, the references to "surviving spouse" are substituted for the former references to "widow [or] widower" for consistency with other similar provisions of the Code.

Also in subsection (b)(1) of this section, the former references to the "decedent's" beneficiaries are deleted as surplusage.

In the introductory language of subsection (b)(1) of this section, the phrase "[o]n the death of an officer or a civilian employee of the Department" is added for clarity.

Also in the introductory language of subsection (b)(1) of this section, the reference to the benefit "provided for under this title" is substituted for the former reference to the "said" benefit for clarity.

Also in the introductory language of subsection (b)(1) of this section, the former reference to benefits being paid "in the following order" is deleted as surplusage.

In subsection (b)(1)(ii) of this section, the reference to "minor" children is substituted for the former reference to children "under 18 years of age" for brevity and consistency with other similar provisions of the Code.

In subsection (b)(1)(iv) of this section, the reference to the estate of the "officer or employee" is substituted for the former reference to the estate of the "decedent" for clarity. Similarly, in subsection (b)(4) of this section, the reference to a "deceased officer or civilian employee" is substituted for the former reference to a "decedent".

In subsection (b)(2)(ii) of this section, the reference to benefits that shall "be paid" is added for clarity.

In subsection (b)(3)(ii) of this section, the phrase "[i]f a benefit is payable to a minor who does not have a legal guardian in the State" is substituted for the former phrase "if none" for clarity.

Also in subsection (b)(3)(ii) of this section, the former reference to benefits payable "at such times and amounts" is deleted as implicit in the Board's authority to set "conditions".

In subsection (b)(4) of this section, the reference to "[a] beneficiary's" eligibility is added for clarity.

In subsection (c)(2) of this section, the reference to "the benefits" being paid is added for clarity.

Also in subsection (c)(2) of this section, the former references to benefits "actually" paid "over into the hands of" the beneficiary are deleted as surplusage.

Defined terms: "Board" § 30–101
"Department" § 30–101
"Fund" § 30–101
"Person" § 1–101
"State" § 1–101

GENERAL REVISOR'S NOTE TO ARTICLE

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of revision has been that, once something is said, it should be said in the same way every time. To that end, the Local Government Article Review Committee conformed the language and organization of this article to that of previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Local Government Article Review Committee that this bulk revision of the substantive local government laws of the State render no substantive change. The guiding principle of the preparation of this article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

> [T]he principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted)

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of this article in no way is intended to make any change to the substantive law of Maryland. This intent is further stated in uncodified language included in the enactment of this article. *See* § 7 of Ch. 119, Acts of 2013.

Throughout this article, the references to "ordinance" are intended to also refer to the term "local law" and vice versa. In practice, the terminology to reference a local legislative act varies among different counties and municipalities. This revision is not meant to exclude any county based on the term it uses to refer to a local enactment. The General Assembly may wish to consider whether there is a more appropriate term that should be utilized throughout this article to consistently refer to a local legislative act. No substantive change is intended.

Some apparently obsolete provisions allocated to the Local Government Article are transferred to the Session Laws for historical purposes or to avoid any inadvertent substantive effect their repeal might have.

In some instances, the staff of the Department of Legislative Services may create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted during the 2013 Session on some provisions of this article.

Former Art. 25, § 3(ee), which authorized the County Commissioners of Talbot County to regulate the retail sale of alcoholic beverages in Talbot County, is deleted as duplicative of Art. 2B, § 18–101 of the Annotated Code.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 1 – Rules of Interpretation

25.

(a) Unnumbered revised articles of the Annotated Code of Maryland may be cited as stated in this section.

(b) A section of the Agriculture Article may be cited as: "§___ of the Agriculture Article".

(c) A section of the Business Occupations and Professions Article may be cited as: "§___ of the Business Occupations and Professions Article".

(d) A section of the Business Regulation Article may be cited as: "§___ of the Business Regulation Article".

(e) A section of the Commercial Law Article may be cited as: "§___ of the Commercial Law Article".

(f) A section of the Corporations and Associations Article may be cited as: "§___ of the Corporations and Associations Article".

(g) A section of the Correctional Services Article may be cited as: "§___ of the Correctional Services Article".

(h) A section of the Courts and Judicial Proceedings Article may be cited as: "§___ of the Courts Article".

(i) A section of the Criminal Law Article may be cited as: "§___ of the Criminal Law Article".

(j) A section of the Criminal Procedure Article may be cited as: "§___ of the Criminal Procedure Article".

(k) A section of the Economic Development Article may be cited as: "§___ of the Economic Development Article".

(l) A section of the Education Article may be cited as: "§___ of the Education Article".

(m) A section of the Election Law Article may be cited as: "§___ of the Election Law Article".

(n) A section of the Environment Article may be cited as: "§___ of the Environment Article".

(o) A section of the Estates and Trusts Article may be cited as: "§___ of the Estates and Trusts Article".

(p) A section of the Family Law Article may be cited as: "§___ of the Family Law Article".

(q) A section of the Financial Institutions Article may be cited as: "§___ of the Financial Institutions Article".

(r) A section of the Health – General Article may be cited as: "§___ of the Health – General Article".

(s) A section of the Health Occupations Article may be cited as: "§___ of the Health Occupations Article".

(t) A section of the Housing and Community Development Article may be cited as: "§___ of the Housing and Community Development Article".

(u) A section of the Human Services Article may be cited as: "§___ of the Human Services Article".

(v) A section of the Insurance Article may be cited as: "§___ of the Insurance Article".

(w) A section of the Labor and Employment Article may be cited as: "§___ of the Labor and Employment Article".

(x) A section of the Land Use Article may be cited as: "§___ of the Land Use Article".

(y) **A SECTION OF THE LOCAL GOVERNMENT ARTICLE MAY BE CITED AS: "§ ____ OF THE LOCAL GOVERNMENT ARTICLE".**

(Z) A section of the Natural Resources Article may be cited as: "§___ of the Natural Resources Article".

[(z)**] (AA)** A section of the Public Safety Article may be cited as: "§___ of the Public Safety Article".

[(aa)**] (BB)** A section of the Public Utilities Article may be cited as: "§ ___ of the Public Utilities Article".

[(bb)**] (CC)** A section of the Real Property Article may be cited as: "§___ of the Real Property Article".

[(cc)**] (DD)** A section of the State Finance and Procurement Article may be cited as: "§___ of the State Finance and Procurement Article".

[(dd)**] (EE)** A section of the State Government Article may be cited as: "§___ of the State Government Article".

[(ee)**] (FF)** A section of the State Personnel and Pensions Article may be cited as: "§___ of the State Personnel and Pensions Article".

[(ff)**] (GG)** A section of the Tax – General Article may be cited as: "§___ of the Tax – General Article".

[(gg)**] (HH)** A section of the Tax – Property Article may be cited as: "§___ of the Tax – Property Article".

[(hh)**] (II)** A section of the Transportation Article may be cited as: "§___ of the Transportation Article".

Article 2B – Alcoholic Beverages

18–105. CONSUMPTION ON PUBLIC PROPERTY IN CHARLES COUNTY AND ST. MARY'S COUNTY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN CHARLES COUNTY AND ST. MARY'S COUNTY.

(B) AUTHORITY TO REGULATE.

THE COUNTY COMMISSIONERS MAY REGULATE, BY ORDINANCE, THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY, INCLUDING BUILDINGS, GROUNDS, STREETS, HIGHWAYS, ALLEYS, SIDEWALKS, AND OTHER STRUCTURES OR ROADS LOCATED ON LAND IN THE COUNTY OWNED BY THE COUNTY, THE BOARD OF EDUCATION, OR THE STATE.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 25, § 3(hh).

Article – Business Regulation

17–439. RESERVED.

17–440. RESERVED.

PART V. LICENSING OF AMUSEMENT DEVICES — WASHINGTON COUNTY.

17–441. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) AMUSEMENT DEVICE.

(1) "AMUSEMENT DEVICE" MEANS A BILLIARD TABLE OR GAME ACTIVATED BY COINS OR TOKENS.

(2) "AMUSEMENT DEVICE" INCLUDES:

(I) A VIDEO GAME;

(II) AN ELECTRONIC GAME;

(III) A CLAW MACHINE;

(IV) A BOWLING GAME;

(V) A SHUFFLEBOARD GAME;

(VI) A POOL TABLE;

(VII) A PINBALL MACHINE;

(VIII) A TARGET MACHINE;

(IX) A BASEBALL MACHINE; AND

(X) ANY OTHER SIMILAR DEVICE.

(3) "AMUSEMENT DEVICE" DOES NOT INCLUDE A VENDING MACHINE IN WHICH AMUSEMENT FEATURES ARE NOT INCORPORATED.

(C) AMUSEMENT DEVICE OPERATOR LICENSE.

"AMUSEMENT DEVICE OPERATOR LICENSE" MEANS A LICENSE ISSUED BY THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY TO OPERATE AN AMUSEMENT DEVICE IN WASHINGTON COUNTY.

(D) AMUSEMENT DEVICE PERMIT.

"AMUSEMENT DEVICE PERMIT" MEANS A PERMIT ISSUED BY THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY TO ALLOW THE PUBLIC USE OF AN AMUSEMENT DEVICE IN WASHINGTON COUNTY.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section. Subsection (a) of this section is new language added as the standard introductory language of a definition section. Subsection (b) of this section is new language derived without substantive change from former Art. 24, § 11–202(a). Subsections (c) and (d) of this section are new language added for clarity and to conform to other similar provisions of this article.

In subsection (b)(3) of this section, the former reference to a "bona fide" vending machine is deleted as surplusage.

17–442. SCOPE OF PART.

PART V OF THIS SUBTITLE APPLIES ONLY IN WASHINGTON COUNTY.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language added to clarify the scope of this part.

17–443. AMUSEMENT DEVICE OPERATOR LICENSE.

(A) IN GENERAL.

WHENEVER A PERSON OPERATES AN AMUSEMENT DEVICE IN WASHINGTON COUNTY, THE PERSON MUST HAVE AN AMUSEMENT DEVICE OPERATOR LICENSE.

(B) LICENSE REQUIREMENTS.

(1) AN APPLICANT FOR AN AMUSEMENT DEVICE OPERATOR LICENSE SHALL:

(I) APPLY TO THE COUNTY COMMISSIONERS ON THE FORM THAT THE COUNTY COMMISSIONERS REQUIRE; AND

(II) PAY A LICENSE FEE OF $25.

(3) AN APPLICATION FOR AN AMUSEMENT DEVICE OPERATOR LICENSE SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE APPLICANT;

(II) THE NAME AND ADDRESS OF EACH LOCATION WHERE AMUSEMENT DEVICES ARE TO BE OPERATED BY THE APPLICANT; AND

(III) ANY OTHER INFORMATION THAT THE COUNTY COMMISSIONERS REQUIRE.

(C) TERM OF LICENSE; RENEWAL.

(1) UNLESS AN AMUSEMENT DEVICE OPERATOR LICENSE IS RENEWED FOR A 1–YEAR TERM AS PROVIDED IN THIS SUBSECTION, AN

AMUSEMENT DEVICE OPERATOR LICENSE EXPIRES ON JUNE 30 AFTER ITS EFFECTIVE DATE.

(2) BEFORE AN AMUSEMENT DEVICE OPERATOR LICENSE EXPIRES, THE LICENSEE MAY RENEW IT PERIODICALLY FOR AN ADDITIONAL 1–YEAR TERM IF THE LICENSEE:

(I) APPLIES TO THE COUNTY COMMISSIONERS ON THE FORM THAT THE COUNTY COMMISSIONERS REQUIRE; AND

(II) PAYS TO THE COUNTY COMMISSIONERS A RENEWAL FEE OF $25.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 24, § 11–202(b).

In subsection (a) of this section, the phrase "[w]henever a person operates" an amusement device is substituted for the former phrase "before the person … may operate" an amusement device for consistency with other similar provisions of this subtitle.

Also in subsection (a) of this section, the former references to a "company, partnership, or any other incorporated or unincorporated organization" are deleted as unnecessary in light of the definition of "person" in § 1–101 of this article.

In the introductory language of subsection (b)(1) of this section, the former reference to "annually" submitting an application and paying a fee is deleted in light of the references in subsection (c) of this section to a "1–year term".

In subsection (c)(1) of this section, the phrase "[u]nless an amusement device operator license is renewed for a 1–year term as provided in this subsection" is substituted for the former phrase "and may be renewed each year on or before July 1" to conform to similar provisions in the Code relating to the renewal of licenses.

Also in subsection (c)(1) of this section, the reference to the license expiring "on June 30 after its effective date" is substituted for the former reference to the license expiring "on June 30 each year" for clarity.

17–444. AMUSEMENT DEVICE PERMIT.

(A) IN GENERAL.

WHENEVER A PERSON KEEPS, OWNS, OR MAINTAINS AN AMUSEMENT DEVICE, BEFORE THE PERSON ALLOWS THE PUBLIC USE OF THE AMUSEMENT DEVICE IN WASHINGTON COUNTY, THE PERSON MUST HAVE AN AMUSEMENT DEVICE PERMIT.

(B) PERMIT REQUIREMENTS.

AN APPLICANT FOR AN AMUSEMENT DEVICE PERMIT SHALL:

(1) APPLY TO THE COUNTY COMMISSIONERS ON THE FORM THAT THE COUNTY COMMISSIONERS REQUIRE FOR EACH LOCATION WHERE AN AMUSEMENT DEVICE IS TO BE OPERATED; AND

(2) PAY A FEE OF $100 FOR EACH AMUSEMENT DEVICE.

(C) TERM OF LICENSE; RENEWAL.

(1) UNLESS AN AMUSEMENT DEVICE PERMIT IS RENEWED FOR A 1–YEAR TERM AS PROVIDED IN THIS SUBSECTION, AN AMUSEMENT DEVICE PERMIT EXPIRES ON JUNE 30 AFTER ITS EFFECTIVE DATE.

(2) AN AMUSEMENT DEVICE PERMIT MAY BE RENEWED EACH YEAR ON OR BEFORE JULY 1.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 24, § 11–202(c).

In subsection (a) of this section, the phrase "[w]henever a person keeps, owns, or maintains an amusement device" is added for consistency with other similar provisions of this subtitle.

Also in subsection (a) of this section, the reference to the "public use" of an amusement device is substituted for the former reference to the "operation of the machine by the public" for brevity.

In subsection (b)(2) of this section, the phrase "for each amusement device" is substituted for the former phrase "per machine for each permit" for clarity and brevity.

In subsection (c)(1) of this section, the phrase "[u]nless an amusement device permit is renewed for a 1–year term as provided in this subsection" is substituted for the former phrase "and may be renewed each year on or

before July 1" to conform to similar provisions in the Code relating to the renewal of licenses.

Also in subsection (c)(1) of this section, the reference to the permit expiring "on June 30 after its effective date" is substituted for the former reference to "on June 30 each year" for clarity.

17–445. FEE WAIVER.

IF AN AMUSEMENT DEVICE IS ON DISPLAY FOR SALE, THE COUNTY COMMISSIONERS MAY WAIVE ANY FEE REQUIRED UNDER THIS PART.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 24, § 11–202(d).

17–446. PENALTIES.

(A) IN GENERAL.

(1) A PERSON WHO VIOLATES § 17–443 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

(2) A PERSON WHO VIOLATES § 17–444 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $500 OR BOTH.

(B) FORFEITURE.

(1) ON CONVICTION FOR A VIOLATION UNDER THIS PART, THE COUNTY MAY INSTITUTE PROCEEDINGS TO SEIZE ANY AMUSEMENT DEVICE THAT WAS OPERATED IN VIOLATION OF THIS PART.

(2) THE CIRCUIT COURT OF WASHINGTON COUNTY HAS JURISDICTION TO HEAR AND DETERMINE ANY FORFEITURE PROCEEDING CARRIED OUT UNDER THIS PART.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 24, § 11–202(e).

In subsection (b)(1) of this section, the reference to a conviction "for a violation under this part" is added for clarity.

Also in subsection (b)(1) of this section, the reference to "seiz[ing]" any amusement device is substituted for the former reference to "forfeit[ing]" an amusement device for clarity.

17–447. RESERVED.

17–448. RESERVED.

PART VI. LICENSING OF AMUSEMENT DEVICES — WORCESTER COUNTY.

17–449. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) AMUSEMENT DEVICE.

"AMUSEMENT DEVICE" MEANS:

(1) A FREE–PLAY CONSOLE MACHINE;

(2) A FREE–PLAY PINBALL MACHINE; AND

(3) A COIN–OPERATED GAME.

(C) COIN–OPERATED GAME.

"COIN–OPERATED GAME" MEANS A DEVICE FOR PUBLIC AMUSEMENT, THE OPERATION OF WHICH REQUIRES THE INSERTION OF A COIN OR TOKEN, WITH THE RESULT OF THE OPERATION DEPENDING ON THE SKILL OF THE OPERATOR, INCLUDING:

(1) A CLAW MACHINE;

(2) A SHUFFLEBOARD;

(3) A MECHANICAL BOWLING GAME;

(4) A SINGLE–COIN PINBALL MACHINE; AND

(5) ANY OTHER SIMILAR DEVICE.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section. Subsection (a) of this section is new language added as the standard introductory language of a definition section. Subsections (b) and (c) of this section are new language derived without substantive change from the first sentence of former Art. 24, § 11–201(a) and the first sentence of (b).

Subsections (b) and (c) of this section are revised as definition provisions for clarity.

In subsection (b)(1) and (2) of this section, the former references to free–play console machines and free–play pinball machines "as defined in § 17–401 of the Business Regulation Article" are deleted as unnecessary in light of the recodification of this provision in Title 17, Subtitle 4 of the Business Regulation Article.

In the introductory language of subsection (c) of this section, the former reference to the operation of the game depending "in whole or part" on the skill of the operator is deleted as surplusage.

17–450. SCOPE OF PART.

PART VI OF THIS SUBTITLE APPLIES ONLY IN WORCESTER COUNTY.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language added to clarify the scope of this part.

17–451. LICENSING AUTHORITY.

THE COUNTY COMMISSIONERS MAY:

(1) AUTHORIZE THE OPERATION OF AMUSEMENT DEVICES IN WORCESTER COUNTY;

(2) PROVIDE FOR THE LICENSING OF EACH AMUSEMENT DEVICE;

(3) SUBJECT TO § 17–452 OF THIS SUBTITLE, ESTABLISH ANNUAL LICENSE FEES FOR AMUSEMENT DEVICES; AND

(4) ADOPT REGULATIONS FOR THE ISSUANCE OF LICENSES UNDER THIS PART.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from the first and second sentences of former Art. 24, § 11–201(a) and, as it related to adopting regulations, the third sentence.

In item (1) of this section, the reference to the county commissioners "authoriz[ing]" the operation of amusement devices is substituted for the former reference to the county commissioners being "authorized to declare that the operation … is legal" for brevity.

In item (2) of this section, the reference to "each amusement device" is substituted for the former reference to "each person, firm or corporation maintaining, operating and/or conducting these machines" for consistency with § 17–452 of this subtitle.

17–452. LICENSE FEES.

(A) FEES FOR FREE–PLAY CONSOLE MACHINES AND FREE–PINBALL MACHINES.

THE ANNUAL LICENSE FEE ESTABLISHED BY THE COUNTY COMMISSIONERS FOR EACH FREE–PLAY CONSOLE MACHINE AND EACH FREE–PLAY PINBALL MACHINE MAY NOT BE LESS THAN $25 OR EXCEED $100.

(B) FEES FOR COIN–OPERATED GAMES.

THE ANNUAL LICENSE FEE ESTABLISHED BY THE COUNTY COMMISSIONERS FOR EACH COIN–OPERATED GAME MAY NOT BE LESS THAN $10 OR EXCEED $50.

(C) DISPOSITION OF FEES.

THE MONEY COLLECTED FROM LICENSE FEES UNDER THIS PART SHALL BE DEPOSITED IN THE GENERAL FUND OF WORCESTER COUNTY.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from the second sentence of former Art. 24, § 11–201(b) and the fourth sentence and, as it related to license fees, the third sentence of (a).

In subsection (a) of this section, the reference to each "free–play console machine" and each "free–play pinball machine" is substituted for the former reference to "machine" for clarity.

In subsection (b) of this section, the reference to each "coin–operated game" is substituted for the former reference to "such machine or device" for clarity.

Also in subsection (b) of this section, the former reference to establishing the license fee "from time to time" is deleted as surplusage.

17–453. OCEAN CITY ARCADES.

(A) IN GENERAL.

EACH ARCADE IN OCEAN CITY WITH 50 OR MORE AMUSEMENT DEVICES ON THE PREMISES MAY OBTAIN AN ARCADE LICENSE IN ACCORDANCE WITH THIS SECTION.

(B) FEES.

(1) THE ANNUAL ARCADE LICENSE FEE SHALL BE:

(I) $1,000, IF THERE ARE AT LEAST 50 BUT NOT MORE THAN 100 AMUSEMENT DEVICES ON THE ARCADE PREMISES;

(II) $1,500, IF THERE ARE AT LEAST 101 BUT NOT MORE THAN 150 AMUSEMENT DEVICES ON THE ARCADE PREMISES;

(III) $2,000, IF THERE ARE AT LEAST 151 BUT NOT MORE THAN 200 AMUSEMENT DEVICES ON THE ARCADE PREMISES; AND

(IV) $2,500, IF THERE ARE MORE THAN 200 AMUSEMENT DEVICES ON THE ARCADE PREMISES.

(2) IN ADDITION TO THE ARCADE LICENSE FEE UNDER THIS SECTION, EACH ARCADE IN OCEAN CITY THAT HAS ON THE PREMISES A FREE–PLAY CONSOLE MACHINE OR FREE–PLAY PINBALL MACHINE SHALL PAY A LICENSE FEE OF NOT LESS THAN $25 FOR EACH FREE–PLAY CONSOLE MACHINE AND FOR EACH FREE–PLAY PINBALL MACHINE.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 24, § 11–201(c).

In subsection (a) of this section, the reference to "amusement devices" is substituted for the former reference to "such machines or other devices" for clarity.

In subsection (b)(2) of this section, the references to "free–play console machine" and "free–play pinball machine" are substituted for the former references to "any of the machines or devices listed in subsection (a) of this section" and "each such machine or device" for clarity.

17–454. PENALTIES.

A PERSON WHO KEEPS, MAINTAINS, OR OPERATES AN AMUSEMENT DEVICE WITHOUT A LICENSE AS REQUIRED BY THIS PART, OR WHO VIOLATES ANY REGULATION ADOPTED BY THE COUNTY COMMISSIONERS FOR THE ISSUANCE OF A LICENSE UNDER THIS PART, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF AT LEAST $25 BUT NOT MORE THAN $1,000.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from the fifth sentence of former Art. 24, § 11–201(a).

The reference to an "amusement device" is substituted for the former reference to "any of the aforesaid machines" for clarity.

The former reference to a "firm or corporation" is deleted as unnecessary in light of the definition of "person" in § 1–101 of this article.

The former reference to "possessing" an amusement device is deleted as included in the reference to "keep[ing]" an amusement device.

The former reference to any regulation for "the maintenance and operation of any machine licensed hereunder" is deleted as implicit in the reference to any regulation "adopted by the county commissioners for the issuance of a license".

Article – Courts and Judicial Proceedings

2–309.

(k) **(4) THE COUNTY COUNCIL MAY INCLUDE IN THE MERIT SYSTEM OF THE COUNTY THE EMPLOYEES OF THE DORCHESTER COUNTY SHERIFF'S OFFICE.**

(s) **(3) THE COUNTY COMMISSIONERS MAY INCLUDE IN THE MERIT SYSTEM OF THE COUNTY THE EMPLOYEES OF THE QUEEN ANNE'S COUNTY SHERIFF'S DEPARTMENT.**

(u) **(4) THE COUNTY COMMISSIONERS MAY INCLUDE IN THE MERIT SYSTEM OF THE COUNTY THE EMPLOYEES OF THE SOMERSET COUNTY SHERIFF'S OFFICE.**

(v) **(6) THE COUNTY COUNCIL MAY:**

(I) REQUIRE THE SHERIFF AND DEPUTY SHERIFFS TO WEAR THE UNIFORMS AND EQUIPMENT PRESCRIBED BY THE COUNTY COUNCIL WHILE ON DUTY OR PERFORMING AN OFFICIAL ACT; AND

(II) 1. ISSUE THE REQUIRED UNIFORMS AND EQUIPMENT TO THE SHERIFF AND DEPUTY SHERIFFS; OR

2. REIMBURSE THE SHERIFF AND DEPUTY SHERIFFS FOR THE PURCHASE OF UNIFORMS AND EQUIPMENT.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted subsections (k)(4), (s)(3), (u)(4), and (v)(6) of this section, which are new language derived without substantive change from former Art. 25, § 10F and the fourth and fifth sentences and, as it related to a merit system for employees of the Dorchester County Sheriff's Office, the Queen Anne's County Sheriff's Department, and the Somerset County Sheriff's Office, the third sentence of § 3(f).

In the introductory language of subsection (v)(6) of this section, the reference to the "County Council" is substituted for the former reference to the "County Commissioners" for accuracy.

Also in the introductory language of subsection (v)(6) of this section, the former phrase "in addition to, but not in substitution for, the powers which may have been or may hereafter be granted them" is deleted as surplusage.

In subsection (v)(6)(ii)2 of this section, the reference to "the purchase of uniforms and equipment" is substituted for the former reference to "all expenses incurred in acquiring them" for clarity.

5–507.

(a) **[**In an action in contract described under Article 23A, § 1A of the Code, a municipal corporation, or its officer, department, agency, board, commission, or other unit of government, is not liable for punitive damages.

(b)**]** (1) An official of a municipal corporation, while acting in a discretionary capacity, without malice, and within the scope of the official's

employment or authority shall be immune as an official or individual from any civil liability for the performance of the action.

(2) An official of a municipal corporation is not immune from liability for negligence or any other tort arising from the operation of a motor vehicle except as to any claim for damages in excess of the limits of any applicable policy of motor vehicle liability insurance.

[(3) (i)**]** **(B) (1)** Subject to **[**subparagraph (ii) of this paragraph**]** **PARAGRAPH (2) OF THIS SUBSECTION**, a municipal corporation shall provide a defense for an official of the municipal corporation for any act arising within the scope of the official's employment or authority.

[(ii)**]** **(2)** A municipal corporation shall only provide a defense for an official of the municipal corporation for negligence or any other tort arising from the operation of a motor vehicle as to any claim for damages in excess of the limits of any applicable policy of motor vehicle liability insurance.

5–508.

[(a) In an action in contract described under Article 25, § 1A of the Code, a county governed by county commissioners and organized according to the provisions of Article 25 of the Code, or its officer, department, agency, board, commission, or other unit of county government, is not liable for punitive damages.

(b)**]** An officer or director of a public drainage association or public watershed association, while acting in a discretionary capacity, without malice, and within the scope of the officer's or director's employment or authority is immune as an official or individual from civil liability for any act or omission.

5–509. IMMUNITY — OFFICIAL OF GOVERNMENTAL ENTITY.

(A) "OFFICIAL" DEFINED.

IN THIS SECTION, "OFFICIAL" INCLUDES A MEMBER OF THE GOVERNING BODY OF A SPECIAL TAXING DISTRICT.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO A SPECIAL TAXING DISTRICT THAT:

(1) IS A UNIT OF GOVERNMENT RESPONSIBLE FOR AN AREA SITUATED SOLELY WITHIN A SINGLE COUNTY;

(2) HAS A GOVERNING BODY ELECTED INDEPENDENTLY OF THE COUNTY GOVERNMENT;

(3) IS FINANCED WITH REVENUES SECURED WHOLLY OR PARTLY FROM SPECIAL TAXES OR ASSESSMENTS IMPOSED ON REAL PROPERTY SITUATED IN THE DISTRICT;

(4) PERFORMS MUNICIPAL SERVICES FOR THE RESIDENTS OF THE DISTRICT; AND

(5) WAS NOT CREATED FOR A LIMITED OR SPECIAL PURPOSE.

(C) NONLIABILITY OF OFFICIALS GENERALLY; EXCEPTION FOR TORTS INVOLVING MOTOR VEHICLES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN OFFICIAL OF A SPECIAL TAXING DISTRICT, WHILE ACTING IN A DISCRETIONARY CAPACITY, WITHOUT MALICE, AND WITHIN THE SCOPE OF THE OFFICIAL'S AUTHORITY, IS IMMUNE IN AN OFFICIAL OR INDIVIDUAL CAPACITY FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION.

(2) AN OFFICIAL OF A SPECIAL TAXING DISTRICT IS NOT IMMUNE FROM LIABILITY FOR NEGLIGENCE OR ANY OTHER TORT THAT ARISES FROM THE OPERATION OF A MOTOR VEHICLE EXCEPT AS TO ANY CLAIM FOR DAMAGES IN EXCESS OF THE LIMITS OF ANY APPLICABLE POLICY OF MOTOR VEHICLE LIABILITY INSURANCE.

(D) DEFENSES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A SPECIAL TAXING DISTRICT SHALL PROVIDE A DEFENSE FOR AN OFFICIAL OF THE SPECIAL TAXING DISTRICT FOR ANY ACT OR OMISSION THAT IS WITHOUT MALICE AND THAT ARISES WITHIN THE SCOPE OF THE OFFICIAL'S AUTHORITY.

(2) A SPECIAL TAXING DISTRICT SHALL PROVIDE ONLY A DEFENSE FOR AN OFFICIAL OF THE SPECIAL TAXING DISTRICT FOR NEGLIGENCE OR ANY OTHER TORT THAT ARISES FROM THE OPERATION OF A MOTOR VEHICLE AS TO ANY CLAIM FOR DAMAGES IN EXCESS OF THE LIMITS OF ANY APPLICABLE POLICY OF MOTOR VEHICLE LIABILITY INSURANCE.

(E) EXPENDITURE OF REVENUES.

A SPECIAL TAXING DISTRICT MAY SPEND REVENUES FOR THE PURPOSES SPECIFIED IN THIS SECTION.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 26, §§ 1 through 4, and former CJ § 5–511.

Throughout this section, the references to a "special taxing district" are substituted for the former references to a "governmental entity" for clarity.

In subsection (a) of this section, the former reference to an official "of a governmental entity" is deleted as surplusage.

In subsection (b) of this section, the former defined term "governmental entity" is revised as a scope provision for clarity.

In subsection (b)(3) and (4) of this section, the references to a "district" are substituted for the former references to an "area" for clarity.

In subsection (b)(3) of this section, the reference to taxes or assessments "imposed" is substituted for the former reference to taxes or assessments "levied" for consistency with other similar provisions of the Code.

In subsection (b)(5) of this section, the former reference to "purposes" is deleted in light of the reference to "purpose" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (c)(1) of this section, the reference to immunity "in an official or individual capacity" is substituted for the former reference to immunity "as an official or individual" for clarity.

In subsection (d)(1) of this section, the reference to an official "of the special taxing district" is added for clarity.

Also in subsection (d)(1) of this section, the reference to the paragraph being "[s]ubject to paragraph (2) of this section," is added for clarity and consistency with § 5–507 of the Courts Article.

Also in subsection (d)(1) of this section, the reference to an act or omission "that is" without malice is substituted for the former reference to an act or omission "undertaken" without malice for clarity.

SUBTITLE 5A. CONTRACT CLAIMS AGAINST LOCAL GOVERNMENTS.

5–5A–01. MUNICIPAL CORPORATIONS.

(A) DEFENSE OF SOVEREIGN IMMUNITY BARRED.

EXCEPT AS OTHERWISE PROVIDED BY STATE LAW, A MUNICIPAL CORPORATION AND ITS OFFICERS AND UNITS MAY NOT RAISE THE DEFENSE OF SOVEREIGN IMMUNITY IN A COURT OF THE STATE IN A CONTRACT ACTION BASED ON A WRITTEN CONTRACT EXECUTED ON BEHALF OF THE MUNICIPAL CORPORATION OR ITS UNITS BY AN OFFICIAL OR EMPLOYEE ACTING WITHIN THE SCOPE OF THE OFFICIAL'S OR EMPLOYEE'S AUTHORITY.

(B) PUNITIVE DAMAGES.

IN A CONTRACT ACTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION, A MUNICIPAL CORPORATION AND ITS OFFICERS AND UNITS ARE NOT LIABLE FOR PUNITIVE DAMAGES.

(C) STATUTE OF LIMITATION.

A CLAIM IS BARRED UNLESS THE CLAIMANT FILES SUIT WITHIN THE LATER OF 1 YEAR AFTER:

(1) THE DATE ON WHICH THE CLAIM AROSE; OR

(2) THE DATE OF COMPLETION OF THE CONTRACT THAT GAVE RISE TO THE CLAIM.

(D) SATISFACTION OF JUDGMENTS.

THE GOVERNING BODY OF A MUNICIPAL CORPORATION SHALL MAKE AVAILABLE ADEQUATE MONEY TO SATISFY ANY FINAL JUDGMENT, AFTER ANY RIGHT OF APPEAL IS EXHAUSTED, AGAINST THE MUNICIPAL CORPORATION OR ITS OFFICERS OR UNITS IN A CONTRACT ACTION UNDER THIS SECTION.

(E) RESOLUTION OF DISPUTES IN CONSTRUCTION CONTRACTS.

(1) A MUNICIPAL CORPORATION MAY REQUIRE, IN CONNECTION WITH A CONSTRUCTION CONTRACT TO WHICH THE MUNICIPAL CORPORATION IS A PARTY, THAT A DISPUTE REGARDING THE TERMS OF OR PERFORMANCE UNDER THE CONTRACT BE SUBJECT TO A FINAL, BINDING DETERMINATION BY:

(I) A NEUTRAL PERSON SELECTED BY, OR UNDER A PROCEDURE ESTABLISHED BY, THE HIGHEST EXECUTIVE AUTHORITY OF THE MUNICIPAL CORPORATION; OR

(II) IF THE OTHER PARTY TO THE DISPUTE DOES NOT ACCEPT AS NEUTRAL THE PERSON SELECTED UNDER ITEM (I) OF THIS PARAGRAPH, AN ARBITRATION PANEL COMPOSED OF:

1. ONE MEMBER DESIGNATED BY THE HIGHEST EXECUTIVE AUTHORITY OF THE MUNICIPAL CORPORATION;

2. ONE MEMBER DESIGNATED BY THE OTHER PARTY TO THE DISPUTE; AND

3. ONE MEMBER TO BE SELECTED BY MUTUAL AGREEMENT OF THE TWO DESIGNATED MEMBERS FROM LISTS SUBMITTED BY THE PARTIES TO THE DISPUTE.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A MUNICIPAL CORPORATION MAY NOT REQUIRE, IN CONNECTION WITH A CONSTRUCTION CONTRACT TO WHICH THE MUNICIPAL CORPORATION IS A PARTY, THAT A DISPUTE INVOLVING AT LEAST $10,000 REGARDING THE TERMS OF OR PERFORMANCE UNDER THE CONTRACT BE SUBJECT TO A FINAL, BINDING DETERMINATION MADE BY AN OFFICER OR OFFICIAL BODY OF THE MUNICIPAL CORPORATION.

(3) A MUNICIPAL CORPORATION MAY REQUIRE, IN CONNECTION WITH A CONSTRUCTION CONTRACT TO WHICH THE MUNICIPAL CORPORATION IS A PARTY, THAT QUESTIONS OF FACT ARISING FROM A DISPUTE INVOLVING AT LEAST $10,000 REGARDING THE TERMS OF OR PERFORMANCE UNDER THE CONTRACT BE SUBJECT TO A DETERMINATION BY AN OFFICER OR OFFICIAL BODY OF THE MUNICIPAL CORPORATION IF THE DECISION OF THE OFFICER OR OFFICIAL BODY IS SUBJECT TO JUDICIAL REVIEW ON THE RECORD.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 23A, § 1A and former CJ § 5–507(a).

Throughout this section, the former references to a municipal corporation's "department, agency, board, [or] commission" are deleted as included in the references to a municipal corporation's "units" and for consistency with similar provisions of the Code.

In subsection (a) of this section, the former reference to "specifically" provided by State law is deleted as surplusage.

In subsection (c)(2) of this section, the reference to "the date of" completion of the contract is added for clarity and consistency with subsection (c)(1) of this section.

In subsection (d) of this section, the former phrase "[i]n order to provide for the implementation of this section," is deleted as surplusage.

Also in subsection (d) of this section, the former reference to a final judgment "which has been rendered" against the municipal corporation is deleted as surplusage.

In subsection (e) of this section, the former references to a municipal corporation "provid[ing]" are deleted as included in the references to a municipal corporation "requir[ing]".

In the introductory language of subsection (e)(1) of this section, the reference to a "final, binding determination" is substituted for the former reference to a "determination which is final and conclusive" for consistency within this subsection.

Also in the introductory language of subsection (e)(1) of this section, the former reference to "the question or questions involved in the dispute" is deleted as implicit in the reference to "dispute".

Also in the introductory language of subsection (e)(1) of this section, the former reference to a determination that is final and conclusive "on all parties" is deleted as surplusage.

In subsection (e)(1)(i) and (ii) of this section, the former references to an "entity" are deleted as included in the references to a "person".

In subsection (e)(1)(ii) of this section, the reference to the other party "to the dispute" is added for clarity.

In subsection (e)(2) and (3) of this section, the former references to a dispute "between the parties" are deleted as implicit in the reference to a dispute.

In subsection (e)(2) of this section, the former reference to a "conclusive" determination is deleted as included in the reference to a "final, binding" determination.

In subsection (e)(3) of this section, the reference to "questions of fact arising from" a dispute is added for clarity.

Also in subsection (e)(3) of this section, the reference to "judicial" review is substituted for the former reference to review "by a court of competent jurisdiction" for clarity and brevity.

Also in subsection (e)(3) of this section, the former reference to a determination of "questions of fact" is deleted as surplusage.

Former Art. 23A, § 1B, which cross–referenced a substantive provision in the Courts Article (CJ § 5–507(b)), is deleted as duplicative of that provision, now revised as CJ § 5–507(a).

5–5A–02. COUNTIES.

(A) DEFENSE OF SOVEREIGN IMMUNITY BARRED.

EXCEPT AS OTHERWISE PROVIDED BY STATE LAW, A COUNTY AND ITS OFFICERS AND UNITS MAY NOT RAISE THE DEFENSE OF SOVEREIGN IMMUNITY IN A COURT OF THE STATE IN A CONTRACT ACTION BASED ON A WRITTEN CONTRACT EXECUTED ON BEHALF OF THE COUNTY OR ITS UNITS BY AN OFFICIAL OR EMPLOYEE ACTING WITHIN THE SCOPE OF THE OFFICIAL'S OR EMPLOYEE'S AUTHORITY.

(B) PUNITIVE DAMAGES.

IN A CONTRACT ACTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION, A COUNTY AND ITS OFFICERS AND UNITS ARE NOT LIABLE FOR PUNITIVE DAMAGES.

(C) STATUTE OF LIMITATION.

A CLAIM IS BARRED UNLESS THE CLAIMANT FILES SUIT WITHIN THE LATER OF 1 YEAR AFTER:

(1) THE DATE ON WHICH THE CLAIM AROSE; OR

(2) THE DATE OF COMPLETION OF THE CONTRACT THAT GAVE RISE TO THE CLAIM.

(D) SATISFACTION OF JUDGMENTS.

THE GOVERNING BODY OF A COUNTY SHALL MAKE AVAILABLE ADEQUATE MONEY TO SATISFY ANY FINAL JUDGMENT, AFTER ANY RIGHT OF APPEAL IS

EXHAUSTED, AGAINST THE COUNTY OR ITS OFFICERS OR UNITS IN A CONTRACT ACTION UNDER THIS SECTION.

(E) RESOLUTION OF DISPUTES IN CONSTRUCTION CONTRACTS.

(1) A COUNTY MAY REQUIRE, IN CONNECTION WITH A CONSTRUCTION CONTRACT TO WHICH THE COUNTY IS A PARTY, THAT A DISPUTE REGARDING THE TERMS OF OR PERFORMANCE UNDER THE CONTRACT BE SUBJECT TO A FINAL, BINDING DETERMINATION BY:

(I) A NEUTRAL PERSON SELECTED BY, OR UNDER A PROCEDURE ESTABLISHED BY, THE HIGHEST EXECUTIVE AUTHORITY OF THE COUNTY; OR

(II) IF THE OTHER PARTY TO THE DISPUTE DOES NOT ACCEPT AS NEUTRAL THE PERSON SELECTED UNDER ITEM (I) OF THIS PARAGRAPH, AN ARBITRATION PANEL COMPOSED OF:

1. ONE MEMBER DESIGNATED BY THE HIGHEST EXECUTIVE AUTHORITY OF THE COUNTY;

2. ONE MEMBER DESIGNATED BY THE OTHER PARTY TO THE DISPUTE; AND

3. ONE MEMBER TO BE SELECTED BY MUTUAL AGREEMENT OF THE TWO DESIGNATED MEMBERS FROM LISTS SUBMITTED BY THE PARTIES TO THE DISPUTE.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A COUNTY MAY NOT REQUIRE, IN CONNECTION WITH A CONSTRUCTION CONTRACT TO WHICH THE COUNTY IS A PARTY, THAT A DISPUTE INVOLVING AT LEAST $10,000 REGARDING THE TERMS OF OR PERFORMANCE UNDER THE CONTRACT BE SUBJECT TO A FINAL, BINDING DETERMINATION MADE BY AN OFFICER OR OFFICIAL BODY OF THE COUNTY.

(3) A COUNTY MAY REQUIRE, IN CONNECTION WITH A CONSTRUCTION CONTRACT TO WHICH THE COUNTY IS A PARTY, THAT QUESTIONS OF FACT ARISING FROM A DISPUTE INVOLVING AT LEAST $10,000 REGARDING THE TERMS OF OR PERFORMANCE UNDER THE CONTRACT BE SUBJECT TO A DETERMINATION BY AN OFFICER OR OFFICIAL BODY OF THE COUNTY IF THE DECISION OF THE OFFICER OR OFFICIAL BODY IS SUBJECT TO JUDICIAL REVIEW ON THE RECORD.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 25, § 1A, former Art. 25A, § 1A, former Art. 25B, § 13A, and former CJ §§ 5–509, 5–510, and 5–508(a).

Throughout this section, the former references to a county "governed by county commissioners", a "chartered" county, and a "code" county are deleted as included in the references to a "county".

Also throughout this section, the former references to a county's "department, agency, board, [or] commission" are deleted as included in the references to a county's "units" and for consistency with similar provisions of the Code.

In subsection (a) of this section, the former reference to a county "organized according to the provisions of this article" is deleted as surplusage. Similarly, in subsection (b) of this section, the former reference to a county "organized according to the provisions of Article 25 of the Code" is deleted.

Also in subsection (a) of this section, the former reference to unless otherwise "specifically" provided by State law is deleted as surplusage.

In subsection (c)(2) of this section, the reference to "the date of" completion of the contract is added for clarity and consistency with subsection (c)(1) of this section.

In subsection (d) of this section, the former phrase "[i]n order to provide for the implementation of this section" is deleted as surplusage.

Also in subsection (d) of this section, the former reference to a final judgment "which has been rendered" against the county is deleted as surplusage.

In subsection (e) of this section, the former references to a county "provid[ing]" are deleted as included in the former references to a county "requir[ing]".

In the introductory language of subsection (e)(1) of this section, the reference to a "final, binding determination" is substituted for the former reference to a "determination which is final and conclusive" for consistency within this subsection.

Also in the introductory language of subsection (e)(1) of this section, the former reference to "the question or questions involved in the dispute" is deleted as implicit in the reference to "dispute".

Also in the introductory language of subsection (e)(1) of this section, the former reference to a determination that is final and conclusive "on all parties" is deleted as surplusage.

In subsection (e)(1)(i) and (ii) of this section, the former references to an "entity" are deleted as included in the references to a "person".

In subsection (e)(1)(ii) of this section, the reference to the other party "to the dispute" is added for clarity.

In subsection (e)(2) and (3) of this section, the former references to a dispute "between the parties" are deleted as implicit in the references to a "dispute".

In subsection (e)(2) of this section, the former reference to a "conclusive" determination is deleted as included in the reference to a "final, binding" determination.

In subsection (e)(3) of this section, the reference to "questions of fact arising from" a dispute is added for clarity.

Also in subsection (e)(3) of this section, the reference to "judicial" review is substituted for the former reference to review "by a court of competent jurisdiction" for clarity and brevity.

Also in subsection (e)(3) of this section, the former reference to a determination of "questions of fact" is deleted as surplusage.

Former Art. 25, § 60, which cross–referenced a substantive provision in the Courts Article (CJ § 5–508(b)), is deleted as duplicative of that provision, now revised as CJ § 5–508.

Article – Education

4–128. EMPLOYEES RETURNING FROM MILITARY SERVICE.

A COUNTY BOARD OF EDUCATION IS SUBJECT TO THE REQUIREMENTS RELATING TO EMPLOYEES WHO RETURN FROM MILITARY SERVICES IN § 1–203 OF THE LOCAL GOVERNMENT ARTICLE.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language added to provide a cross–reference to the provisions on employees returning to the military services applicable to county boards of education.

4–129. EMPLOYEE RIGHT TO ENGAGE IN POLITICAL ACTIVITY.

THE RIGHT OF AN EMPLOYEE OF A COUNTY BOARD OF EDUCATION TO ENGAGE IN POLITICAL ACTIVITY IS SUBJECT TO TITLE 1, SUBTITLE 3 OF THE LOCAL GOVERNMENT ARTICLE.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language added to provide a cross–reference to the provisions on political activities of employees applicable to employees of county boards of education.

Article – Public Utilities

7–106. SALE OF ELECTRIC PLANT OR GAS PLANT.

(A) APPLICATION OF SECTION.

THIS SECTION DOES NOT QUALIFY, LIMIT, OR ABRIDGE THE POWER AND AUTHORITY, OR THE MANNER OF EXERCISE OF ANY POWER AND AUTHORITY, CONFERRED ON A MUNICIPAL CORPORATION BY ITS CHARTER OR A SPECIAL ACT OF THE GENERAL ASSEMBLY TO SELL, LEASE, EXCHANGE, OR OTHERWISE DISPOSE OF ANY ELECTRIC PLANT OR GAS PLANT.

(B) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO:

(1) TALBOT COUNTY;

(2) WASHINGTON COUNTY; OR

(3) THE MUNICIPAL CORPORATION OF BERLIN, CENTREVILLE, HAGERSTOWN, ROCK HALL, OR SNOW HILL.

(C) SALE OF ELECTRIC PLANT OR GAS PLANT AUTHORIZED.

SUBJECT TO SUBSECTION (D) OF THIS SECTION, A MUNICIPAL CORPORATION THAT OWNS AN ELECTRIC PLANT OR A GAS PLANT MAY SELL, LEASE, EXCHANGE, OR OTHERWISE DISPOSE OF THE PLANT, OR ANY PART OF OR INTEREST IN THE PLANT, TO ANY ELECTRIC COMPANY OR GAS COMPANY ON TERMS AND CONDITIONS DETERMINED BY THE MUNICIPAL CORPORATION.

(D) APPROVAL OF SALE; NOTICE OF SALE.

(1) THE SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION OF AN ELECTRIC PLANT OR A GAS PLANT BY A MUNICIPAL CORPORATION IS SUBJECT TO APPROVAL BY THE COMMISSION.

(2) IF THE COMMISSION APPROVES THE SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION, AT LEAST TWICE WITHIN 15 DAYS AFTER THE DATE OF THE ORDER OF APPROVAL BY THE COMMISSION, THE MUNICIPAL CORPORATION SHALL PUBLISH NOTICE OF THE SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION AND OF THE APPROVAL BY THE COMMISSION:

(I) IN A NEWSPAPER PUBLISHED IN THE MUNICIPAL CORPORATION; OR

(II) IF NO NEWSPAPER IS PUBLISHED IN THE MUNICIPAL CORPORATION, IN A NEWSPAPER PUBLISHED IN THE COUNTY IN WHICH THE MUNICIPAL CORPORATION IS LOCATED.

(E) RATIFICATION OF PROPOSED SALE; CONSUMMATION OF SALE.

(1) A PROPOSED SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION OF A MUNICIPALLY OWNED ELECTRIC PLANT OR GAS PLANT SHALL BE RATIFIED AT A SPECIAL ELECTION BY THE AFFIRMATIVE VOTE OF A MAJORITY OF THE RESIDENTS OF THE MUNICIPAL CORPORATION ELIGIBLE TO VOTE AT THE LAST PRECEDING REGULAR ELECTION FOR MUNICIPAL OFFICERS IF A PETITION, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IS DELIVERED TO THE MUNICIPAL CORPORATION REQUESTING THE MUNICIPALITY TO HOLD A SPECIAL ELECTION FOR THE RATIFICATION OR DISAPPROVAL OF THE PROPOSED SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION.

(2) A PETITION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:

(I) IN WRITING;

(II) SIGNED BY AT LEAST 10% OF THE RESIDENTS OF THE MUNICIPAL CORPORATION ELIGIBLE TO VOTE AT THE LAST PRECEDING REGULAR ELECTION FOR MUNICIPAL OFFICERS; AND

(III) DELIVERED WITHIN 30 DAYS AFTER THE DATE OF PUBLICATION OF THE SECOND NOTICE REQUIRED UNDER SUBSECTION (D)(2) OF THIS SECTION.

(3) THE MUNICIPAL CORPORATION SHALL HOLD A SPECIAL ELECTION UNDER THIS SUBSECTION AT THE TIME AND PLACE IN THE MUNICIPAL CORPORATION AND IN THE MANNER THAT THE MUNICIPAL CORPORATION REQUIRES.

(4) IF THE SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION IS RATIFIED AT THE SPECIAL ELECTION, THE MUNICIPAL CORPORATION SHALL CONSUMMATE THE SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION.

(F) CONSUMMATION OF SALE WITHOUT RATIFICATION.

(1) IF A PETITION FOR A SPECIAL ELECTION IS NOT DELIVERED TO THE MUNICIPAL CORPORATION IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION:

(I) RATIFICATION AT A SPECIAL ELECTION IS NOT REQUIRED; AND

(II) THE MUNICIPAL CORPORATION SHALL CONSUMMATE THE SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION.

(2) A SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION THAT IS CONSUMMATED UNDER THIS SUBSECTION IS AS VALID AND EFFECTIVE AS A DISPOSITION RATIFIED UNDER SUBSECTION (E) OF THIS SECTION.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 23, §§ 182 and 183.

In subsection (a) of this section, the former reference to power and authority "now or hereafter" conferred is deleted as surplusage. Similarly, in subsection (c) of this section, the former references to "now" and "hereafter" are deleted.

In subsection (c) of this section, the former reference to "acquiring" an electric or gas plant is deleted as included in the reference to "own[ing]" a plant.

In subsection (d)(2) of this section, the phrase "[i]f the Commission approves the sale, lease, exchange, or other disposition" is added for clarity.

In subsection (e)(1) and (3) of this section, the former references to the municipal corporation "arrang[ing] for" a special election are deleted as included in the references to "hold[ing]" a special election.

In subsection (e)(1) of this section, the former phrase "[i]n addition to the conditions and limitations imposed by § 182 of this article" is deleted as unnecessary in light of the general rules of statutory construction, which would require all the provisions of this section to be read as a whole. Similarly, the former reference to the disposition of an electric plant or a gas plant "as defined and contemplated by said section" is deleted.

Also in subsection (e)(1) of this section, the former references to residents "who shall cast ballots at" a special election "for that purpose" are deleted as surplusage.

In subsection (e)(2)(ii) of this section, the reference to 10% of the "residents of the municipal corporation eligible to vote at the last preceding regular election for municipal officers" is substituted for the former reference to "voters in such municipal corporation, qualified as aforesaid in this section" for clarity.

In subsections (e)(4) and (f)(1)(ii) of this section, the former references to "execut[ing] all transfers or other title papers necessary to … effectuate" the disposition are deleted as implicit in the references to "consummat[ing]" the disposition.

In the introductory language of subsection (f)(1) of this section, the reference to the petition being "delivered to the municipal corporation in accordance with subsection (e) of this section" is substituted for the former reference to a petition being "signed and delivered to said municipal corporation, as aforesaid, within the said period of thirty days after the date of publication of the second notice required by said § 182, as aforesaid" for brevity.

In subsection (f)(1)(i) of this section, the former reference to ratification "of any such proposed sale, lease, exchange or other disposition by said voters, as heretofore authorized in this section" is deleted as surplusage.

In subsection (f)(2) of this section, the reference to ratification "under subsection (e) of this section" is substituted for the former reference to ratification "by the said voters at a special election petitioned for and held as herein authorized" for brevity and clarity.

7–107. CHARGES FOR WATER SERVICE — GARRETT COUNTY.

SUBJECT TO THE REGULATIONS OF THE COMMISSION, THE COUNTY COMMISSIONERS OF GARRETT COUNTY MAY ADOPT, AMEND, AND ENFORCE A REASONABLE CHARGE FOR DISCONTINUING AND RESTORING WATER SERVICE.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 25, § 9L.

Article – State Finance and Procurement

4–316. COOPERATIVE PURCHASING.

(A) IN GENERAL.

SUBJECT TO THE INITIAL APPROVAL OF THE SECRETARY, THE APPROPRIATE PURCHASING UNIT FOR THE FOLLOWING ENTITIES MAY USE THE SERVICES OF THE DEPARTMENT TO PURCHASE MATERIALS, SUPPLIES, AND EQUIPMENT:

(1) A COUNTY;

(2) A MUNICIPALITY;

(3) A GOVERNMENTAL UNIT IN THE STATE;

(4) A PUBLIC OR QUASI–PUBLIC AGENCY THAT:

(I) RECEIVES STATE MONEY; AND

(II) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE;

(5) A PRIVATE ELEMENTARY OR SECONDARY SCHOOL THAT:

(I) EITHER HAS BEEN ISSUED A CERTIFICATE OF APPROVAL FROM THE STATE BOARD OF EDUCATION OR IS ACCREDITED BY THE ASSOCIATION OF INDEPENDENT SCHOOLS; AND

(II) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; OR

(6) A NONPUBLIC INSTITUTION OF HIGHER EDUCATION AS PROVIDED UNDER § 17–106 OF THE EDUCATION ARTICLE.

(B) PURCHASE OF RELIGIOUS MATERIALS PROHIBITED.

NOTWITHSTANDING SUBSECTION (A)(5) AND (6) OF THIS SECTION, THE DEPARTMENT MAY NOT PURCHASE RELIGIOUS MATERIALS ON BEHALF OF A

PRIVATE ELEMENTARY OR SECONDARY SCHOOL OR A NONPUBLIC INSTITUTION OF HIGHER EDUCATION.

(C) CONSTRUCTION OF SECTION.

THE PURCHASING AUTHORITY UNDER THIS SECTION IS IN ADDITION TO, AND NOT A SUBSTITUTION FOR, THE PURCHASING POWER OF AN ENTITY UNDER ANOTHER LAW.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 25, § 3A and former Art. 41, § 18–201.

In subsection (a) of this section, the former reference to purchasing materials "as provided in Title 4, Subtitle 3 of the State Finance and Procurement Article" is deleted as surplusage.

In the introductory language of subsection (a) of this section, the reference to a purchasing "unit" is substituted for the former reference to a purchasing "entity" for clarity.

Also in the introductory language of subsection (a) of this section, the former reference to "the Purchasing Bureau" of the Department of General Services is deleted as unnecessary because the Secretary of General Services is not required to use the Purchasing Bureau.

Also in the introductory language of subsection (a) of this section, the former inaccurate reference to authority granted to the "county commissioners" is deleted as included in the reference to authority granted to the "appropriate purchasing unit for … a county".

In subsection (a)(1) of this section, the former reference granting cooperative purchasing authority to "Baltimore City" is deleted as included in the reference granting cooperative purchasing authority to all "count[ies]". *See* Art. 1, § 14 of the Code, which states that "county" includes Baltimore City, unless such construction is unreasonable.

In subsection (c) of this section, the reference to "purchasing power … under another law" is substituted for the former reference to "applicable purchasing power … pursuant to any statutory or charter provision" for clarity and brevity.

Also in subsection (c) of this section, the former reference to purchasing authority "through the Department of General Services" is deleted as implicit in the reference to the authority "under this section".

Also in subsection (c) of this section, the former reference to purchasing power "granted to any county, municipal corporation, the Mayor and City Council of Baltimore, any other governmental agency in this State, or any public or quasi–public agency" is deleted as unnecessary in light of subsection (a) of this section.

8–131.2. EXEMPTION FROM TAXATION.

THE STATE BONDS, THE TRANSFER OF STATE BONDS, THE INTEREST PAYABLE ON STATE BONDS, AND ANY INCOME DERIVED FROM STATE BONDS, INCLUDING PROFIT REALIZED IN THE SALE OR EXCHANGE OF STATE BONDS, ARE EXEMPT FROM STATE AND LOCAL TAXES.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 31, § 22.

The references to "State" bonds are added for clarity.

The reference to "State and local taxes" is substituted for the former reference to "taxation of every kind and nature whatsoever within this State by the State of Maryland or by any of its political subdivisions, municipal corporations, or public agencies of any kind" for brevity.

The former reference to the bonds being exempt from taxation "at all times" is deleted as surplusage.

8–222. EXEMPTION FROM TAXATION.

THE FOLLOWING OBLIGATIONS ARE EXEMPT FROM STATE AND LOCAL TAXATION:

(1) A BOND OR GRANT ANTICIPATION NOTE ISSUED UNDER THIS PART;

(2) A BOND ISSUED TO PAY THE NOTES ISSUED UNDER ITEM (1) OF THIS SECTION; AND

(3) THE INTEREST ON THE OBLIGATIONS.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 31, § 12(g), except

as it related to the authority to issue notes under former Art. 31, § 12 of the Code.

Article – Transportation

4–407. CONSTRUCTION OF TOLL ROADS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO:

(1) CAROLINE COUNTY;

(2) CECIL COUNTY:

(3) DORCHESTER COUNTY;

(4) KENT COUNTY;

(5) QUEEN ANNE'S COUNTY;

(6) SOMERSET COUNTY;

(7) TALBOT COUNTY;

(8) WICOMICO COUNTY; AND

(9) WORCESTER COUNTY.

(B) IN GENERAL.

A STATE AGENCY, INCLUDING THE MARYLAND TRANSPORTATION AUTHORITY, MAY NOT CONSTRUCT ANY TOLL ROAD, TOLL HIGHWAY, OR TOLL BRIDGE IN THE COUNTIES ENUMERATED IN THIS SECTION WITHOUT THE EXPRESS CONSENT OF A MAJORITY OF THE GOVERNMENTS OF THE AFFECTED COUNTIES.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 25, § 236.

8–609.2. BRIDGES ON NAVIGABLE RIVERS.

A BRIDGE MAY NOT BE BUILT ON A NAVIGABLE RIVER UNLESS AUTHORIZED BY THE ADMINISTRATION.

REVISOR'S NOTE: Chapter 119, Acts of 2013, which enacted the Local Government Article, also enacted this section, which is new language derived without substantive change from former Art. 23, § 143.

SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 6 of Article 25 – County Commissioners of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Powers of County Commissioners

[6.**] 1.**

The provisions as set forth in **FORMER ARTICLE 25,** § 3 **[**hereof**] OF THE ANNOTATED CODE OF MARYLAND** are intended to supplement or to supply authority in the county commissioners of the various counties to do and perform various acts, matters and things not otherwise provided for by law. In any county where there shall already exist authority under any public local law to do or perform any matter, act or thing referred to in **FORMER ARTICLE 25,** § 3, said public local law shall prevail and completely control the acts and procedure of said county commissioners unless said public local law is more restrictive than the authority granted under **FORMER ARTICLE 25,** § 3, in which event **FORMER ARTICLE 25,** § 3 shall be deemed to supplement and increase said authority. Nothing contained in **FORMER ARTICLE 25,** § 3 shall in any manner be considered a limitation or restriction on any existing power and authority granted the county commissioners of any county nor shall any broader or more unrestricted power or procedure vested in or authorized to the county commissioners of any county with respect to any matters specifically provided for by a public local law be deemed in any manner limited by any of the provisions of **FORMER ARTICLE 25,** § 3.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 6.

When originally enacted, former Art. 25, § 6 was an uncodified Section 3 of Ch. 730 of the Acts of the General Assembly of 1947. It was codified in the preparation of the 1947 Cumulative Supplement, but not through an enactment of the General Assembly. It is transferred to the Session Laws to return it to its original form of codification.

The first and third sentences of former Art. 25, § 6 are restatements of principles of statutory construction. The second sentence is unnecessary in light of Article 1, § 13 of the Annotated Code of Maryland, which provides that "[w]here the public general law and the public local law of

any county, city, town, or district are in conflict, the public local law shall prevail".

No substantive change is intended by this transfer.

SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 50A of Article 25 – County Commissioners of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Baltimore County Bridges

[50A.**] 1.**

Title to both Bear Creek bridges in Baltimore County is hereby transferred to Baltimore County, Maryland as of the date of the payment of all of the principal of and interest on all unredeemed outstanding Bear Creek bridges 3 1/2 percent bonds of 1958. Tolls may not be charged or collected for the use of either bridge.

REVISOR'S NOTE: This section formerly was Art. 25, § 50A.

It is not retained in the Code because the outstanding bonds were paid in full in 1988 and the remaining provisions have limited application. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

No changes are made.

SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 14–304(c) of Article 41 – Governor – Executive and Administrative Departments of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Ratification of Existing Parking Authority of Counties

[14–304.**] 1.**

[(c)**]** If a parking authority was created before July 1, 1984, a county may ratify the authority and all acts and contracts of the authority which were in accord with the authority's charter and the law by filing the authority's charter with **[**the departments listed in subsection (a) of this section**]:**

(1) THE DEPARTMENT OF ASSESSMENTS AND TAXATION;

(2) THE DEPARTMENT OF LEGISLATIVE SERVICES; AND

(3) THE SECRETARY OF STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–304(c).

It is not retained in the Code because a parking authority created before July 1, 1984, would most likely have already been ratified under this provision. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The reference to "the Department of Assessments and Taxation … the Department of Legislative Services [and] the Secretary of State" is substituted for the former reference to "the departments listed in subsection (a) of this section" for clarity.

SECTION 7. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 8. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

SECTION 9. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, board, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 10. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 11. AND BE IT FURTHER ENACTED, That the continuity of every commission, board, office, department, agency, or other unit is retained. The personnel records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 12. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act or the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 13. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of the State.

SECTION 14. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2013 that affects provisions enacted by this Act. The publisher shall adequately describe such correction in an editor's note following the section affected.

SECTION 15. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 120

(House Bill 491)

AN ACT concerning

Somerset County – Alcoholic Beverages – Selling Near Schools, Places of Worship, Public Libraries, and Youth Centers

FOR the purpose of making certain exceptions to the prohibition against the Somerset County Board of License Commissioners approving a license to sell alcoholic beverages for certain establishments located within 300 feet of a school, church or other place of worship, public library, or youth center; and generally relating to the issuance of a license to sell alcoholic beverages in Somerset County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–220

Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

9–220.

(A) (1) [In**] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN** Somerset County, the Board of License Commissioners may not approve any license to sell alcoholic beverages within a 300 foot measurement from the nearest point of the building that is the proposed establishment for which the license is requested to the nearest point of the property line of a school, church or other place of worship, public library, or youth center.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO:

(I) A LICENSED ESTABLISHMENT THAT EXISTED BEFORE THE SCHOOL, CHURCH OR OTHER PLACE OF WORSHIP, PUBLIC LIBRARY, OR YOUTH CENTER WAS BUILT WITHIN 300 FEET OF THE LICENSED ESTABLISHMENT; AND

(II) AN ESTABLISHMENT WHOSE PREVIOUS OWNER WAS THE HOLDER OF A LICENSE TO SELL ALCOHOLIC BEVERAGES.

(B) This section may not apply to the issuance of special or temporary licenses.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 121

(House Bill 583)

AN ACT concerning

Unemployment Insurance – Relief from Charges for Overpayment of Benefits – Restrictions

FOR the purpose of altering the circumstances under which the Secretary of Labor, Licensing, and Regulation is prohibited from removing a benefit charge from the earned rating record of an employing unit; requiring, except under certain circumstances, the Secretary to remove benefits charged to a not for profit organization or governmental entity from the account of the not for profit organization or governmental entity under certain circumstances; prohibiting the Secretary, under certain circumstances, from removing benefits charged to a not for profit organization or governmental entity; specifying that, for certain purposes, the employing unit or the employing unit's agent, not for profit organization, or governmental entity must raise the issue of good cause in writing and has the burden of proving good cause; prohibiting the Secretary from finding good cause under certain circumstances; providing for the application of this Act; and generally relating to the relief from charges for the overpayment of unemployment benefits.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–611 and 8–620
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

8–611.

(a) For each employing unit, the Secretary shall keep an earned rating record that shows all benefits that are based on covered employment that was performed for the employing unit.

(b) Except as provided in subsection (d) of this section, the Secretary shall charge pro rata against the earned rating record of each base period employer all regular benefits and the share of extended benefits required under subsection (c) of this section in the same proportion as the wages paid by the base period employer is to the total wages of the claimant during the base period, and rounded to the nearest dollar.

(c) (1) Notwithstanding any other provision of this title, the Secretary may not charge against the earned rating record of an employing unit an extended benefit payment for which the State receives full reimbursement from the federal government.

(2) Except as provided in subsection (d) of this section, the appropriate share of extended benefits:

(i) for a governmental entity, is all extended benefits paid to a claimant; and

(ii) for other employing units, is 50% of extended benefits paid to a claimant.

(d) The Secretary shall charge all regular and extended benefits paid to a claimant against the earned rating record of an employing unit that caused the claimant's unemployment during any period in which the unemployment is caused by:

(1) participation of the employing unit in a work sharing unemployment insurance program that the Secretary has approved; or

(2) a shutdown of the employing unit:

(i) to have employees take their vacations at the same time;

(ii) for inventory;

(iii) for retooling; or

(iv) for any other purpose that is primarily other than a lack of work and that causes unemployment for a definite period.

(e) The Secretary may not charge benefits paid to a claimant against the earned rating record of an employing unit if:

(1) the claimant left employment voluntarily without good cause attributable to the employing unit;

(2) the claimant was discharged by the employing unit for gross misconduct as defined in § 8–1002 of this title;

(3) the claimant was discharged by the employing unit for aggravated misconduct as defined in § 8–1002.1 of this title;

(4) the claimant left employment voluntarily to accept better employment or enter training approved by the Secretary;

(5) the employing unit participates in a work release program that is designed to give an inmate of a correctional institution an opportunity to work while imprisoned and unemployment was the result of the claimant's release from prison;

(6) the claimant was paid additional training benefits under § 8–812 of this title; or

(7) the claimant left employment for good cause directly attributable to the claimant or the claimant's spouse, minor child, or parent being a victim of domestic violence as defined in § 8–1001(b)(3) of this title.

(f) (1) Except as provided in paragraph (2) of this subsection, if the Secretary determines before the first day of the calendar year for which the rate is assigned, that benefits that have been charged against the earned rating record of an employing unit are recoverable under § 8–809 of this title, the Secretary shall remove those charges from the earned rating record before computation of the earned rate.

(2) **(I)** The Secretary may not remove a benefit charge from an earned rating record if**:**

1. the benefit was paid as a direct or indirect result of the failure of the employing unit**, OR THE EMPLOYING UNIT'S AGENT,** to provide **TIMELY OR ADEQUATE** information **RELATING** to **A CLAIM FOR BENEFITS IN RESPONSE TO A REQUEST FOR INFORMATION MADE BY** the Secretary **[**as required by**] UNDER** this title or regulations adopted to carry out this title**; AND**

2. THE EMPLOYING UNIT, OR THE EMPLOYING UNIT'S AGENT, HAS NOT SHOWN GOOD CAUSE FOR FAILING TO PROVIDE TIMELY OR ADEQUATE INFORMATION.

(II) IN DETERMINING WHETHER THE SECRETARY IS PROHIBITED FROM REMOVING A BENEFIT CHARGE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. AN EMPLOYING UNIT, OR THE EMPLOYING UNIT'S AGENT, MUST RAISE THE ISSUE OF GOOD CAUSE IN WRITING FOR THE ISSUE TO BE CONSIDERED; AND

2. THE EMPLOYING UNIT, OR THE EMPLOYING UNIT'S AGENT, HAS THE BURDEN OF PROVING THERE WAS GOOD CAUSE FOR FAILING TO PROVIDE TIMELY OR ADEQUATE INFORMATION.

(g) The Secretary may not charge the earned rating record of an employing unit that has employed a claimant on a continuous part–time basis and continues to do so while the claimant is separated from other employment and is eligible for benefits because of that separation.

(h) The Secretary may not charge the earned rating record of an employing unit for benefits that are paid to a claimant during a period in which the claimant is disqualified as a result of a reversal or redetermination.

(i) (1) If, as a direct or indirect result of an erroneous report of wages or other information by an employing unit, benefits are paid to a claimant who is not entitled to the benefits, the Secretary shall charge the benefits against the earned rating record of the employing unit responsible for the erroneous report.

(2) Notwithstanding paragraph (1) of this subsection, on request of an employing unit, the Secretary for cause may waive a charge to the employing unit earned rating record that results from erroneous report by the employing unit.

(j) (1) If the Secretary allows an adjustment or refund under this title, the Secretary shall correct the employing unit's earned rating record.

(2) (i) The Secretary may not change an earned rate assigned to an employing unit as a result of an adjustment or refund unless under this title the application is submitted by the December 31 preceding the calendar year for which the rate is assigned.

(ii) The Secretary shall waive the December 31 deadline for good cause.

8–620.

(a) (1) Reimbursement payments shall be made in accordance with this section.

(2) Unless there is an application for review and redetermination of a bill under § 8–621 of this subtitle, a not for profit organization or governmental entity shall pay the bill under this section within 30 days after the Secretary mailed the bill to the last known address of the not for profit organization or governmental entity or otherwise delivered the bill to it.

(b) If benefits paid to an individual are based on wages paid by 2 or more employing units, the amount payable by each employing unit under an election shall be an amount whose ratio to total benefits paid is the same as the ratio that total base period wages paid to the individual by that employing unit has to total base period wages paid by all base period employing units.

(c) Except as provided in subsection (d) of this section, at the end of each calendar quarter or any other period set by the Secretary, the Secretary shall send:

(1) to each not for profit organization that has made an election or if the Secretary has approved a group account under § 8–619 of this subtitle, to the group representative, a bill for all regular and work sharing benefits, and 50% of extended benefits paid during that period that are attributable to covered employment for that not for profit organization; and

(2) to each governmental entity that has made an election, a bill for all regular, work sharing, and extended benefits paid during that period that are attributable to covered employment for that governmental entity.

(d) (1) On request, the Secretary may allow a not for profit organization or governmental entity that has made an election to make reimbursement payments as provided in this subsection.

(2) If the Secretary approves a request, the method of payment shall become effective on approval.

(3) At the end of each calendar quarter or other period set by the Secretary, the Secretary shall mail to a not for profit organization or governmental entity at its last known address or otherwise deliver to it:

(i) a bill for a percentage of its total payroll for the immediately preceding calendar year as determined by the Secretary, based each year on the average cost of benefits that are attributable to covered employment for the not for profit organization or governmental entity during the immediately preceding calendar year; or

(ii) if the not for profit organization or governmental entity did not pay wages during the 4 calendar quarters of the preceding calendar year, a bill for a percentage of its payroll during that year as determined by the Secretary.

(4) At the end of each calendar year:

(i) the Secretary may modify the periodic percentage of payroll payable under this subsection for the upcoming year to minimize excess or insufficient payments;

(ii) the Secretary shall determine the difference between payments made by a not for profit organization or governmental entity and the amount it is required to reimburse to the Unemployment Insurance Fund under § 8–616 of this subtitle; and

(iii) if the Unemployment Insurance Fund has not been reimbursed fully, the Secretary shall mail to the not for profit organization or governmental entity at its last known address or otherwise deliver to it a bill for the difference and require payment in accordance with subsection (a)(2) of this section.

(5) If the total payments for a calendar year exceed the amount required to be reimbursed, the Secretary may:

(i) refund all or part of the excess from the Unemployment Insurance Fund; or

(ii) retain all or part of the excess in the Unemployment Insurance Fund as part of the payments that may be required for the next calendar year.

(e) An employing unit may not deduct, wholly or partly, any payment made under this subtitle from the compensation of individuals in the employ of the not for profit organization or governmental entity.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE SECRETARY RECOVERS BENEFITS CHARGED TO A NOT FOR PROFIT ORGANIZATION OR GOVERNMENTAL ENTITY UNDER § 8–809 OF THIS TITLE, THE SECRETARY SHALL REMOVE THOSE CHARGES FROM THE ACCOUNT OF THE NOT FOR PROFIT ORGANIZATION OR GOVERNMENTAL ENTITY.

(2) (I) THE SECRETARY MAY NOT REMOVE A BENEFIT CHARGE RECOVERED BY THE SECRETARY UNDER § 8–809 OF THIS TITLE FROM THE ACCOUNT OF A NOT FOR PROFIT ORGANIZATION OR GOVERNMENTAL ENTITY IF:

1. THE BENEFIT WAS PAID AS A DIRECT OR INDIRECT RESULT OF THE FAILURE OF THE NOT FOR PROFIT ORGANIZATION OR GOVERNMENTAL ENTITY, EITHER DIRECTLY OR THROUGH AN AGENT, TO PROVIDE TIMELY OR ADEQUATE INFORMATION RELATING TO A CLAIM FOR BENEFITS IN RESPONSE TO A REQUEST FOR INFORMATION MADE BY THE SECRETARY UNDER THIS TITLE OR REGULATIONS ADOPTED TO CARRY OUT THIS TITLE; AND

2. THE NOT FOR PROFIT ORGANIZATION OR GOVERNMENTAL ENTITY HAS NOT DEMONSTRATED GOOD CAUSE FOR FAILING TO PROVIDE TIMELY OR ADEQUATE INFORMATION.

(II) IN DETERMINING WHETHER THE SECRETARY IS PROHIBITED FROM REMOVING A BENEFIT CHARGE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. THE NOT FOR PROFIT ORGANIZATION OR GOVERNMENTAL ENTITY, EITHER DIRECTLY OR THROUGH AN AGENT, MUST RAISE THE ISSUE OF GOOD CAUSE IN WRITING FOR THE ISSUE TO BE CONSIDERED; AND

2. THE NOT FOR PROFIT ORGANIZATION OR GOVERNMENTAL ENTITY, EITHER DIRECTLY OR THROUGH AN AGENT, HAS THE BURDEN OF PROVING THERE WAS GOOD CAUSE FOR FAILING TO PROVIDE TIMELY OR ADEQUATE INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to benefit determinations issued on or after October 1, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 122

(House Bill 587)

AN ACT concerning

Electric Companies – Service Quality and Reliability Standards – Vegetation Management

FOR the purpose of prohibiting a county or municipal corporation from ~~enacting a local law that prevents an electric company from complying~~ taking certain actions that interfere with, or materially increase costs of, compliance with certain vegetation management standards; ~~defining a certain term;~~ and generally relating to vegetation management.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section ~~7–213(a) and (e)~~ 7–213(e)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section ~~7–213(b)~~ 7–213(a), (b), (c), and (d)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

7–213.

(a) (1) In this section the following words have the meanings indicated.

(2) "System–average interruption duration index" or "SAIDI" means the sum of the customer interruption hours divided by the total number of customers served.

(3) "System–average interruption frequency index" or "SAIFI" means the sum of the number of customer interruptions divided by the total number of customers served.

~~(4) "VEGETATION MANAGEMENT" MEANS THE ROUTINE MAINTENANCE OF RIGHTS–OF–WAY OR EASEMENTS OWNED BY AN ELECTRIC COMPANY BY PRUNING OR CLEARING VEGETATION NEAR TRANSMISSION OR DISTRIBUTION LINES.~~

(b) It is the goal of the State that each electric company provide its customers with high levels of service quality and reliability in a cost–effective manner, as measured by objective and verifiable standards, and that each electric company be held accountable if it fails to deliver reliable service according to those standards.

(c) This section does not apply to small rural electric cooperatives or municipal electric companies.

(d) On or before July 1, 2012, the Commission shall adopt regulations that implement service quality and reliability standards relating to the delivery of electricity to retail customers by electric companies through their distribution systems, using:

(1) SAIFI;

(2) SAIDI; and

(3) any other performance measurement that the Commission determines to be reasonable.

(e) (1) The regulations adopted under subsection (d) of this section shall:

(i) include service quality and reliability standards, including standards relating to:

1. service interruption;

2. downed wire response;

3. customer communications;

4. vegetation management;

5. periodic equipment inspections;

6. annual reliability reporting; and

7. any other standards established by the Commission;

(ii) account for major outages caused by events outside the control of an electric company; and

(iii) for an electric company that fails to meet the applicable service quality and reliability standards, require the company to file a corrective action plan that details specific actions the company will take to meet the standards.

(2) The regulations adopted under subsection (d) of this section may include a separate reliability standard for each electric company in order to account for system reliability differentiating factors, including:

(i) system design;

(ii) existing infrastructure;

(iii) customer density; and

(iv) geography.

(3) In adopting the regulations required under subsection (d) of this section, the Commission shall:

(i) consider applicable standards of the Institute of Electrical and Electronics Engineers;

(ii) ensure that the service quality and reliability standards are cost–effective; and

(iii) with respect to standards relating to vegetation management, consider:

1. limitations on an electric company's right to access private property; and

2. customer acceptance of vegetation management initiatives.

(4) A COUNTY OR MUNICIPAL CORPORATION MAY NOT ~~ENACT~~ ADOPT OR ENFORCE A LOCAL ~~LAW FOR THE PLANTING, CARE, AND PROTECTION OF VEGETATION THAT PREVENTS AN ELECTRIC COMPANY FROM COMPLYING~~ LAW, RULE, OR REGULATION OR TAKE ANY OTHER ACTION THAT INTERFERES

WITH, OR MATERIALLY INCREASES THE COST OF THE WORK OF AN ELECTRIC COMPANY TOWARD, COMPLIANCE WITH THE VEGETATION MANAGEMENT STANDARDS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 123

(House Bill 616)

AN ACT concerning

Academic Facilities Bonding Authority

FOR the purpose of approving certain projects for the acquisition, development, and improvement of certain academic facilities for the University System of Maryland; approving the issuance of bonds by the University System of Maryland in a certain total principal amount for financing the projects; providing that the bonds issued under the authority of this Act are not a debt or obligation of the State or any of its subdivisions; and generally relating to academic facilities bonding authority of the University System of Maryland and specified projects.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) In accordance with § 19–102(d) of the Education Article, each of the following projects is approved as a project for an academic facility, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of $15,000,000 for the purposes of financing and refinancing the costs of the following projects:

(A) Coppin State University (Baltimore City): New Science and Technology Center

(B) University of Maryland, College Park (Prince George's County): Campuswide Building System and Infrastructure Improvements

(2) In accordance with § 19–102(d) of the Education Article, such system–wide capital facilities renewal projects for the constituent institutions and centers of the University System of Maryland as are authorized by the Board are

hereby approved as projects for academic facilities, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of $17,000,000 for the purposes of financing and refinancing the costs of those facilities renewal projects.

(3) The bonds issued under the authority of this Act do not create or constitute any indebtedness or obligation of the State or of any political subdivision thereof except for the University System of Maryland, and the bonds shall so state on their face. The bonds do not constitute a debt or obligation contracted by the General Assembly of Maryland or pledge the faith and credit of the State within the meaning of Article III, § 34 of the Maryland Constitution.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 124

(House Bill 636)

AN ACT concerning

Washington Suburban Sanitary District – System Development Charge – Exemptions

MC/PG 103–13

FOR the purpose of authorizing the County Councils of Montgomery County and Prince George's County to grant an exemption from a system development charge imposed by the Washington Suburban Sanitary Commission for certain properties owned by certain entities that are exempt from federal taxation and the primary mission and purpose of which are to provide programs and services to youth under certain circumstances; limiting the amount of a certain exemption from a system development charge; providing for the termination of this Act; and generally relating to the Washington Suburban Sanitary District and the system development charge.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 25–403
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

25–403.

(a) (1) Each year the Montgomery County Council and the Prince George's County Council shall meet to determine the amount of the system development charge.

(2) The amount of the system development charge for a particular property:

(i) shall be based on the number of plumbing fixtures and the assigned values for those fixtures as set forth in the Commission's plumbing and gas fitting regulations;

(ii) except as provided in item (iii) of this paragraph and subsection (c) of this section, may not exceed $200 per fixture unit; and

(iii) for residential properties with five or fewer toilets, shall be based on the number of toilets per dwelling unit and:

1. for each apartment unit, may not exceed $2,000;

2. for dwellings with one or two toilets, may not exceed $3,000;

3. for dwellings with three or four toilets, may not exceed $5,000;

4. for dwellings with five toilets, may not exceed $7,000; and

5. for dwellings with more than five toilets, shall be calculated on a fixture unit basis.

(3) When determining the system development charge, the county councils shall consider the actual cost of construction of Commission facilities.

(b) When determining the system development charge, under criteria established jointly and agreed on by the county councils, the county councils:

(1) shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed on by the county councils;

(2) may grant a full or partial exemption from the charge for**:**

(I) revitalization projects; **OR**

(II) PROPERTY OWNED BY A COMMUNITY–BASED ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE AND HAS THE PRIMARY MISSION AND PURPOSE OF PROVIDING RECREATIONAL AND EDUCATIONAL PROGRAMS AND SERVICES TO YOUTH, IF:

1. THE PROPERTY IS USED PRIMARILY FOR RECREATIONAL AND EDUCATIONAL PROGRAMS AND SERVICES TO YOUTH; AND

2. THE EXEMPTION AMOUNT IS LIMITED TO $80,000; and

(3) may grant a full or partial exemption from the system development charge, under conditions set forth by the county councils, for:

(i) residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George's County;

(ii) residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

(iii) elderly housing other than that included in item (i) or (ii) of this item; or

(iv) properties used for manufacturing or biotechnology research and development.

(c) On July 1, 1999, and July 1 of each succeeding year, the maximum charge, as established in subsection (a)(2) of this section, may be changed by an amount equal to the prior calendar year's change in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor for urban wage earners and clerical workers for all items for the Washington, D.C. metropolitan area, or the successor index.

(d) If the county councils do not agree on the amount of the system development charge, the system development charge imposed during the previous year shall continue in effect for the following fiscal year.

(e) If the system development charge established by the county councils is less than the amount necessary to recover the full cost of constructing growth related

facilities, the Commission shall identify the part of the cost of that growth that will be paid by current ratepayers as:

(1) a percentage of any rate increase; and

(2) the annual monetary amount on a typical residential customer's annual water and sewer bill.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. It shall remain effective for a period of 3 years and, at the end of June 30, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 9, 2013.

Chapter 125

(House Bill 638)

AN ACT concerning

Washington Suburban Sanitary Commission – Minority Business Enterprise Programs ~~– Annual Report~~ and Task Force Extension

MC/PG 107–13

FOR the purpose of altering the date by which the Washington Suburban Sanitary Commission shall issue to the Montgomery County and Prince George's County Senate and House Delegations to the Maryland General Assembly a certain annual report regarding certain minority business enterprise programs; altering the date by which the Task Force to Study Rates and Charges in the Washington Suburban Sanitary District is required to submit a certain report to certain persons; extending the termination date of certain provisions of law establishing the Task Force; and generally relating to the submission of an annual report on minority business enterprise programs by the Washington Suburban Sanitary Commission and the Task Force to Study Rates and Charges in the Washington Suburban Sanitary District.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 20–207
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Chapter 685 of the Acts of the General Assembly of 2012
Section 2(h) and 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

20–207.

(a) By **[**September 15**]** **OCTOBER 31** of each year, the Commission shall issue a report to the Montgomery County and Prince George's County Senate and House Delegations to the Maryland General Assembly concerning:

(1) the implementation and administration of the minority business enterprise programs under this subtitle for the fiscal year ending on the preceding June 30; and

(2) appropriate recommendations concerning the programs.

(b) (1) The Commission may conduct an impartial fact–finding study in connection with a minority business enterprise program for consistency with applicable law.

(2) The Commission shall report the findings of a study completed under this subsection to the Montgomery County and Prince George's County Senate and House Delegations to the Maryland General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 685 of the Acts of 2012

SECTION 2. AND BE IT FURTHER ENACTED, That:

(h) On or before December 31, **[**2012,**]** **2013,** the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the Montgomery County and Prince George's County delegations to the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012. Section 2 of this Act shall remain effective for a period of **[**1 year**]** **2 YEARS** and, at the end of May 31, **[**2013,**]** **2014,** with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 126

(House Bill 640)

AN ACT concerning

Washington Suburban Sanitary Commission – Sewage Leaks – Notice Requirements

MC/PG 115–13

FOR the purpose of requiring the Washington Suburban Sanitary Commission to notify certain local governments and include notice on the Commission's Web site about a sewage leak under certain circumstances; requiring the Commission to adopt regulations to implement this Act; and generally relating to notice requirements about sewage leaks and the Washington Suburban Sanitary Commission.

BY adding to
Article – Public Utilities
Section 24–202 to be under the amended subtitle "Subtitle 2. Sewer Cleaning and Sewage Leaks"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

Subtitle 2. Sewer Cleaning **AND SEWAGE LEAKS**.

24–202.

(A) WITHIN 24 HOURS OF THE DISCOVERY OF A LEAK IN A SANITARY SEWER LINE, PIPE, OR FIXTURE THAT IS CONNECTED TO THE SANITARY SEWER SYSTEM OF THE COMMISSION, THE COMMISSION SHALL:

(1) NOTIFY THE COUNTY AND ANY MUNICIPAL CORPORATION IN WHICH THE SEWAGE LEAK IS LOCATED ABOUT:

(I) THE SEWAGE LEAK; AND

(II) THE COMMISSION'S INTENDED ACTION CONCERNING THE SEWAGE LEAK; AND

(2) INCLUDE THE FOLLOWING ON THE COMMISSION'S WEB SITE:

(I) NOTICE TO THE GENERAL PUBLIC ABOUT THE SEWAGE LEAK; AND

(II) THE PHONE NUMBER FOR OBTAINING ADDITIONAL INFORMATION FROM THE COMMISSION.

(B) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 127

(House Bill 641)

AN ACT concerning

Washington Suburban Sanitary Commission – Drinking Water ~~and Wastewater Effluent~~ – Testing

MC/PG 113–13

FOR the purpose of requiring the Washington Suburban Sanitary Commission to conduct quarterly testing of drinking water ~~and wastewater effluent in~~ in the Commission ~~facilities~~ system for certain unregulated contaminants ~~beginning on a certain date~~; requiring the Commission to report the results of the quarterly testing to the county executives of Montgomery County and Prince George's County and publish the results on its Web site within a certain time period after receiving the results under certain circumstances; and generally

relating to the testing of drinking water ~~and wastewater effluent~~ for certain contaminants by the Washington Suburban Sanitary Commission.

BY adding to
Article – Public Utilities
Section 28–301 to be under the new subtitle "Subtitle 3. Drinking Water ~~and Wastewater Effluent~~ Testing"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

SUBTITLE 3. DRINKING WATER ~~AND WASTEWATER EFFLUENT~~ TESTING.

28–301.

(A) ~~BEGINNING IN 2014, THE~~ THE COMMISSION SHALL CONDUCT QUARTERLY TESTING OF DRINKING WATER ~~AND WASTEWATER EFFLUENT IN~~ IN THE COMMISSION ~~FACILITIES~~ SYSTEM FOR UNREGULATED CONTAMINANTS INCLUDED IN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S THIRD CYCLE OF UNREGULATED CONTAMINANT MONITORING REGULATIONS ESTABLISHED IN ACCORDANCE WITH TITLE XIV, § 1445(A)(B)(I) OF THE FEDERAL PUBLIC HEALTH SERVICE ACT.

(B) WITHIN 30 DAYS AFTER RECEIVING THE RESULTS OF EACH QUARTERLY TEST, IF THE RESULTS INDICATE THAT A CONTAMINANT IS PRESENT, THE COMMISSION SHALL:

(1) REPORT THE RESULTS OF THE TEST TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY; AND

(2) PUBLISH THE RESULTS OF THE TEST ON ITS WEB SITE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 128

(House Bill 645)

AN ACT concerning

Montgomery County – Sale of Alcoholic Beverages – Distance from Schools, Places of Worship, or Youth Centers

MC 16–13

FOR the purpose of authorizing the Montgomery County Board of License Commissioners to approve, by majority vote rather than unanimous action, the application for a license to sell alcoholic beverages more than a certain distance away from certain schools, places of worship, or youth centers; making certain stylistic changes; and generally relating to the sale of alcoholic beverages in Montgomery County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–216(a)(1) and (3)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

9–216.

(a) (1) **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** Montgomery County Board of License Commissioners may not issue any license to sell alcoholic beverages within 750 feet of any secondary or elementary school, church or other place of worship, or youth center sponsored or conducted by any governmental agency.

(3) The **MONTGOMERY COUNTY** Board of License Commissioners may **[**within its discretion and by unanimous action of the Board**]** **BY MAJORITY VOTE** approve the application for any license to sell alcoholic beverages more than 300 feet from any elementary or secondary school, church or other place of worship, or youth center sponsored or conducted by any governmental agency provided that the land upon which the building is situated in which the licensee would operate is classified in a commercial or industrial zone under the applicable zoning ordinance and is adjacent or contiguous to other land which is similarly classified under **[**said**]** **THE** zoning ordinance.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 129

(House Bill 647)

AN ACT concerning

Montgomery County – Town of Kensington – Beer and Wine Sampling or Tasting

MC 9–13

FOR the purpose of authorizing the Montgomery County Board of License Commissioners to issue up to a certain number of additional licenses to certain licensees for holding beer and wine tastings or samplings in the Town of Kensington; making the licenses subject to certain requirements; and generally relating to beer and wine tasting or sampling in the Town of Kensington.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–216(a)(2)(v)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

8–216.

(a) (2) (v) 1. In the town of Kensington, the Montgomery County Board of License Commissioners may issue **[**not**]:**

A. NOT more than three Class A (off–sale) beer and light wine licenses for use in the commercial areas specified in subparagraph (iv)1 of this paragraph**; AND**

B. SUBJECT TO SUBSUBPARAGRAPHS 5 AND 6 OF THIS SUBPARAGRAPH, NOT MORE THAN THREE BEER AND WINE SAMPLING OR TASTING (BWST) LICENSES FOR HOLDING TASTINGS OR SAMPLINGS OF BEER AND WINE.

2. A Class A beer and light wine license authorizes the holder to keep for sale and sell beer or light wine for consumption off the premises 7 days a week, from 10 a.m. to 8 p.m. daily.

3. A holder of a Class A beer and light wine license may not:

A. Sell single bottles or cans of beer;

B. Sell refrigerated products; or

C. On a side, door, or window of the building of the licensed premises, place a sign or other display that advertises alcoholic beverages in a publicly visible location.

4. The annual license fee is $250.

5. THE MONTGOMERY COUNTY BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BEER AND WINE SAMPLING OR TASTING (BWST) LICENSE ESTABLISHED UNDER § 8–408.2 OF THIS TITLE TO A HOLDER OF A CLASS A LICENSE UNDER THIS SUBPARAGRAPH FOR HOLDING TASTINGS OR SAMPLINGS OF BEER AND WINE.

6. A BEER AND WINE SAMPLING OR TASTING (BWST) LICENSE ISSUED UNDER THIS SUBPARAGRAPH IS SUBJECT TO THE FEE, SERVING LIMITS, AND OTHER LICENSE REQUIREMENTS ESTABLISHED UNDER § 8–408.2 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 130

(House Bill 649)

AN ACT concerning

Montgomery County – Alcoholic Beverages – Refillable Beer Containers

MC 4–13

FOR the purpose of authorizing the Board of License Commissioners for Montgomery County to issue a refillable container permit to a holder of a certain alcoholic beverages license under certain circumstances; providing for the renewal of the permit; authorizing a holder of a Class B beer and light wine license or a Class D beer and light wine license to sell draft beer in certain refillable containers for consumption off the licensed premises; specifying the term of and hours of sale for the permit; providing that a holder of the permit may refill only a refillable container that was branded by the permit holder; authorizing the Board of License Commissioners to adopt certain regulations; and generally relating to alcoholic beverages in Montgomery County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 5–201(a)(1) and 5–401(a)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 5–201(q) and 5–401(q)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

5–201.

(a) (1) A Class B beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder may keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises or elsewhere.

(q) (1) This subsection applies only in Montgomery County.

(2) The annual license fee is $400.

(3) (I) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A REFILLABLE CONTAINER PERMIT TO A HOLDER OF A CLASS B BEER AND LIGHT WINE LICENSE ISSUED BY THE BOARD OF LICENSE COMMISSIONERS:

1. ON COMPLETION OF AN APPLICATION FORM THAT THE BOARD PROVIDES; AND

2. AT NO COST TO THE CLASS B LICENSE HOLDER.

(II) A REFILLABLE CONTAINER PERMIT MAY BE RENEWED EACH YEAR CONCURRENTLY WITH THE RENEWAL OF A CLASS B BEER AND LIGHT WINE LICENSE.

(4) A REFILLABLE CONTAINER PERMIT ENTITLES THE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER THAT:

(I) HAS A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES; AND

(II) MEETS THE REQUIREMENTS UNDER PARAGRAPH (5) OF THIS SUBSECTION.

(5) TO BE USED AS A REFILLABLE CONTAINER UNDER PARAGRAPH (4) OF THIS SUBSECTION, A CONTAINER SHALL:

(I) BE SEALABLE;

(II) BE BRANDED WITH AN IDENTIFYING MARK OF THE LICENSE HOLDER;

(III) BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 27 C.F.R. 16.21;

(IV) DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND

(V) BEAR A LABEL STATING THAT:

1. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND

2. CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.

(6) THE TERM OF AND HOURS OF SALE FOR A REFILLABLE CONTAINER PERMIT ISSUED UNDER THIS SUBSECTION ARE AS SPECIFIED FOR THE PERMIT HOLDER'S CLASS B BEER AND LIGHT WINE LICENSE.

(7) A HOLDER OF A REFILLABLE CONTAINER PERMIT MAY REFILL ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY THE PERMIT HOLDER.

(8) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION RELATING TO THE ISSUANCE OF A REFILLABLE CONTAINER PERMIT.

[(3)**]** **(9)** (i) In this paragraph, "establishment" means a bowling alley, billiard hall, or drugstore or a restaurant located within these businesses.

(ii) A license may not be issued to, or for use in conjunction with, or upon the premises of any establishment or for use upon any premises which has a door, archway, opening or other passageway providing direct public access to any establishment.

5–401.

(a) (1) A Class D beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes its holder to keep for sale and to sell beer and light wines at retail, at the place described in the license, for consumption on the premises or elsewhere. The license may not be issued for any drugstore.

(q) (1) This subsection applies only in Montgomery County.

(2) (i) For a Class D license, the annual license fee is $400.

(II) 1. THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A REFILLABLE CONTAINER PERMIT TO A HOLDER OF A CLASS D BEER AND LIGHT WINE LICENSE ISSUED BY THE BOARD OF LICENSE COMMISSIONERS:

A. ON COMPLETION OF AN APPLICATION FORM THAT THE BOARD PROVIDES; AND

B. AT NO COST TO THE CLASS D LICENSE HOLDER.

2. A REFILLABLE CONTAINER PERMIT MAY BE RENEWED EACH YEAR CONCURRENTLY WITH THE RENEWAL OF A CLASS D BEER AND LIGHT WINE LICENSE.

(III) A REFILLABLE CONTAINER PERMIT ENTITLES THE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER THAT:

1. HAS A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES; AND

2. MEETS THE REQUIREMENTS UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH.

(IV) TO BE USED AS A REFILLABLE CONTAINER UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH, A CONTAINER SHALL:

1. BE SEALABLE;

2. BE BRANDED WITH AN IDENTIFYING MARK OF THE LICENSE HOLDER;

3. BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 27 C.F.R. 16.21;

4. DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND

5. BEAR A LABEL STATING THAT:

A. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND

B. CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.

(V) THE TERM OF AND HOURS OF SALE FOR A REFILLABLE CONTAINER PERMIT ISSUED UNDER THIS SUBSECTION ARE AS SPECIFIED FOR THE PERMIT HOLDER'S CLASS D BEER AND LIGHT WINE LICENSE.

(VI) A HOLDER OF A REFILLABLE CONTAINER PERMIT MAY REFILL ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY THE PERMIT HOLDER.

(VII) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION RELATING TO THE ISSUANCE OF A REFILLABLE CONTAINER PERMIT.

[(ii)**]** **(3)** **(I)** For a Class D–TP license, the annual license fee is $400.

(II) A Class D–TP licensee may not be charged for such a license until May 1, 1998.

[(3)**]** **(4)** (i) In this paragraph, "establishment" means a bowling alley, billiard hall, or drugstore or a restaurant located within these businesses.

(ii) The license may not be issued to, or for use in conjunction with, or upon the premises of any establishment, or for use upon any premises which has a door, archway, opening or other passageway providing direct public access to any establishment.

(iii) These restrictions which prohibit the issuance of licenses to drugstores or premises adjoining them are not applicable to any establishment which on July 1, 1969, holds an alcoholic beverage license and which on July 1, 1969, has a door, archway, opening or other passageway providing direct public access to any drugstore.

[(4)**]** **(5)** The Board shall issue one Class D–TP license to a person who, on June 30, 1997, both held a Class D beer and light wine license and operated a licensed premises that was located in that portion of the City of Takoma Park that was formerly part of Prince George's County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 131

(House Bill 665)

AN ACT concerning

State Personnel – Law Enforcement Employees – Extra Compensation

FOR the purpose of providing that a law enforcement employee of any unit of State government, instead of only certain law enforcement employees of the Department of State Police and the Department of Natural Resources, who works on certain holidays is entitled to certain extra compensation; <u>making this Act subject to a certain contingency; requiring the Secretary of Budget and Management to give certain notices to the Department of Legislative Services;</u>

providing for the termination of this Act under certain circumstances; and generally relating to the compensation of law enforcement employees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 8–308
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

8–308.

(a) Except as provided in § 8–305(c) of this subtitle, a law enforcement employee of any unit of State government or a State Police cadet who works more than 8 hours in a normal 8–hour workday is entitled to be paid at the rate of one and one–half times the employee's or cadet's regular hourly rate of pay for time worked in excess of 8 hours.

(b) (1) In this subsection, "off–duty hours" means any hours:

(i) during a law enforcement employee's scheduled off–duty day; or

(ii) during a law enforcement employee's on–duty day after the employee has gone off duty.

(2) Except as otherwise provided in this subsection, a law enforcement employee of any unit of State government who is called to duty on the employee's scheduled off–duty day is entitled to be paid at the rate of one and one–half times the employee's regular hourly rate of pay for each hour worked on the off–duty day.

(3) Except as provided in paragraph (4) of this subsection, a law enforcement employee of the Department of State Police holding a noncommissioned rank or a law enforcement employee of the Department of Natural Resources holding a rank of sergeant or below, park ranger supervisor or below, or park services supervisor or below who is called to duty during the employee's off–duty hours is entitled to be paid at the rate of one and one–half times the employee's regular hourly rate of pay for the greater of:

(i) the hours worked during the off–duty hours; or

(ii) 4 hours.

(4) A law enforcement employee of the Department of State Police holding a noncommissioned rank or a law enforcement employee of the Department of Natural Resources holding a rank of sergeant or below who makes an appearance in court on official duty during the employee's off–duty hours is entitled to be paid at the rate of one and one–half times the employee's regular hourly rate of pay for the greater of:

(i) the hours worked during the off–duty hours; or

(ii) 2 hours.

(c) A law enforcement employee of **[**the Department of State Police holding a noncommissioned rank, a law enforcement employee of the Department of Natural Resources holding a rank of sergeant or below**]** **ANY UNIT OF STATE GOVERNMENT**, or a police communications operator of the Department of State Police or Natural Resources Police who is required to work 4 or more hours on New Year's Day, Thanksgiving Day, or Christmas Day, or who is scheduled to be off duty on New Year's Day, Thanksgiving Day, or Christmas Day and is called to duty on any part of that day is entitled to:

(1) compensatory time of 1 day; and

(2) payment at the rate of one and one–half times the employee's regular hourly rate of pay for each hour worked on that day.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) This Act is contingent on the execution, on or before September 30, 2013, of a preliminary agreement, for the economic reopener for fiscal year 2015, between the State and the State Law Enforcement Officer's Labor Alliance that includes the additional compensation provided in § 8–308(c) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.

(2) If the preliminary agreement is not executed on or before September 30, 2013, this Act shall be null and void without the necessity of further action by the General Assembly.

(3) The Secretary of Budget and Management shall notify the Department of Legislative Services on or before October 5, 2013, of whether the preliminary agreement was executed.

(b) (1) If this Act takes effect, it shall terminate effective January 1, 2014, unless the State and the State Law Enforcement Officer's Labor Union execute, on or before December 31, 2013, a final agreement for the economic reopener for fiscal year 2015 that includes the additional compensation provided in § 8–306(c) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.

(2) If the final agreement is not executed on or before December 31, 2013, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect at the end of December 31, 2013.

(3) The Secretary of Budget and Management shall notify the Department of Legislative Services, on or before January 15, 2014, of whether the final agreement was executed.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 132

(House Bill 670)

AN ACT concerning

Montgomery County – Board of Education Districts – Town of Kensington in One District

MC 1–13

FOR the purpose of altering the boundaries of certain board of education districts for the election of the members of the Montgomery County Board of Education; combining a certain split precinct for the Town of Kensington to place all of the residents of the precinct and of the Town of Kensington in one board of education district; making this Act an emergency measure; and generally relating to precincts and board of education districts for Montgomery County.

BY repealing and reenacting, with amendments,
Article – Education
Section 3–901
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

3–901.

(a) (1) In this subtitle the following words have the meanings indicated.

(2) "Elected member" means 1 of the 7 elected and voting members of the Montgomery County Board or a member appointed to fill a vacancy of 1 of these 7 members.

(3) "Board of Education District" means a geographic area of Montgomery County in which an elected member of the Montgomery County Board of Education must be a legal resident. The geographic area of each district is described in subsection (f) of this section. Each district shall be substantially equal in population, and the districts shall be reapportioned on the basis of each decennial census of the United States.

(b) The Montgomery County Board consists of:

(1) 5 elected members, each of whom resides in a different board of education district;

(2) 2 elected members who may reside anywhere in the county; and

(3) 1 student member.

(c) An elected member of the county board shall be a registered voter of Montgomery County.

(d) Members of the Montgomery County Board shall be elected at the general election every 2 years as required by subsection (f) of this section.

(e) (1) The student member shall be a bona fide resident of Montgomery County and a regularly enrolled junior or senior year student from a Montgomery County public high school.

(2) The nomination and election process shall be as agreed on by the county board and the Montgomery County region of the Maryland Association of Student Councils. This agreement shall include a process by which to replace one or both of the final candidates if they are unable to proceed in the election. Any student enrolled in a middle or high school in the Montgomery County public schools may:

(i) Nominate a student member candidate;

(ii) Vote for delegates from the student's school, who in turn vote in a nominating convention to reduce to 2 the number of candidates for student board member if there are 3 or more candidates; and

(iii) Vote directly for 1 of the 2 remaining student board member candidates.

(3) The candidate receiving the second highest number of votes in the direct election shall become the alternate student member. The alternate shall serve if the student member is unable to complete his elected term.

(4) Except as provided in paragraphs (5), (6), and (7) of this subsection, the student member has the same rights and privileges of an elected member.

(5) Unless invited to attend by the affirmative vote of a majority of the county board, the student member may not attend an executive session that relates to:

(i) Hearings held under § 6–202(a) of this article; or

(ii) Collective bargaining.

(6) As provided in paragraph (7) of this subsection, the student member shall vote on all matters except those relating to:

(i) § 6–202(a) of this article;

(ii) Collective bargaining;

(iii) Capital and operating budgets; and

(iv) School closings, reopenings, and boundaries.

(7) On a majority vote of the elected members, the board may determine, on a case by case basis, whether a matter under consideration is covered by the exclusionary provisions listed in paragraph (6) of this subsection.

(f) (1) Each elected member serves for a term of 4 years beginning on December 1 after the member's election and until a successor is elected and qualifies. The terms of elected members are staggered as required by the terms of the members serving on the county board as of July 1, 1978 so that 4 members are elected in gubernatorial election years and 3 members are elected in presidential election years.

(2) Elected members of the county board shall be elected by the voters of the entire county.

(3) (i) Of the 3 members elected in 1992 and every 4 years thereafter, 1 shall reside in Board of Education District 2 and 1 shall reside in Board of Education District 4. The third member may reside in any part of the county.

(ii) Of the 4 members elected in 1990 and every 4 years thereafter, 1 shall reside in Board of Education District 1, 1 shall reside in Board of Education District 3, and 1 shall reside in Board of Education District 5. The fourth member may reside in any part of the county.

(iii) The descriptions of board of education districts in this subsection refer to the geographical boundaries of the election districts and the precincts:

1. As reviewed and certified by the Montgomery County Board of Elections or its designees, before the precinct boundaries were reported to the U.S. Bureau of the Census as part of the 2010 Census Redistricting Data Program; and

2. As those precinct lines are specifically shown on the P.L. 94–171 census block maps provided by the U.S. Bureau of the Census and as reviewed and corrected by the Division of Long–range Planning of the Montgomery County Public Schools.

(iv) Where precincts are split between Board of Education Districts, census tract and block numbers, as indicated in the P.L. 94–171 data or shown on the P.L. 171 census block maps provided by the U.S. Bureau of the Census and referred to in this subtitle, are used to define the boundaries of the education districts.

(v) Board of Education District 1 consists of:

1. Election district 1;

2. Election district 2, precincts 1, 3, 4, 5, 6, 7, 8, 10, and 11;

3. Election district 3;

4. Election district 9, precincts 4, 5, 7, 9, 11, 12, 15, 17, 18, 19, 20, 21, 22, 23, 25, 28, 29, 30, 32, 34, and 37;

5. Election district 11;

6. Election district 12;

7. That part of election district 2, precinct 9 that is generally the western part of precinct 9 which is bounded by Little Seneca Creek to the east, and also generally the far eastern part of precinct 9 from Father Hurley Boulevard east to the precinct boundary;

8. That part of election district 6, precinct 1 that is generally the western part of precinct 1 which extends from the precinct boundary north along South Germantown Tributary (a creek), then east along the center of Schaeffer Road to the precinct boundary;

9. That part of election district 6, precinct 11 that is generally the western part of precinct 11 which extends from the precinct boundary northeast along the center of Schaeffer Road, then runs northwest across the Soccerplex at the intersection of Schaeffer Road and Burdette Lane, then west and north along Hoyles Mill Tributary (a creek), then northeast along Little Seneca Creek to the precinct boundary;

10. That part of election district 9, precinct 1 that is generally the northern part of precinct 1 which extends from the precinct boundary east along the center of CSX railroad tracks to the precinct boundary;

11. That part of election district 9, precinct 8 that is generally the eastern part of precinct 8 which extends from the precinct boundary southeast along the center of Wisteria Drive, then southwest along the center of Great Seneca Highway to the precinct boundary;

12. That part of election district 9, precinct 10 that is generally the northern part of precinct 10 which extends from the precinct boundary northeast along the center of Washington Grove Lane to the precinct boundary;

13. That part of election district 9, precinct 16 that is generally the northern part of precinct 16 which extends from the precinct boundary south along Interstate 270, then east along CSX railroad tracks to the precinct boundary; and

14. That part of election district 9, precinct 24 that is generally the northeastern part of precinct 24 which extends from the precinct boundary southeast along Interstate 270 to the precinct boundary.

(vi) Board of Education District 2 consists of:

1. Election district 2, precinct 2;

2. Election district 4, precincts 2, 3, 5, 6, 7, 14, 16, 21, 22, 23, 24, 25, 26, and 30;

3. Election district 6, precincts 3, 4, 5 through 10, 13, and 14;

4. Election district 9, precincts 2, 3, 6, 13, 14, 26, 27, 31, 33, 35, 36, and 38;

5. That part of election district 2, precinct 9 that is generally the central part of precinct 9 which is bounded by Little Seneca Creek to the west and Father Hurley Boulevard to the east;

6. That part of election district 4, precinct 19 that is generally the eastern part of precinct 19 from the precinct boundary at the intersection of Gude Drive and Calhoun Drive running northeast and approximately 200 feet east of Dubuque Court and Grinnell Terrace, then west along Crabbs Branch Tributary (a creek), then north along the center of Ottenbrook Terrace, then northeast along the center of Deer Lake Lane, then east along the center of Deer Lake Road, then west along the center of Needwood Road to the precinct boundary;

7. That part of election district 4, precinct 20 that is generally the eastern part of precinct 20 which extends from the precinct boundary north along Piney Branch Creek to the precinct boundary;

8. That part of election district 6, precinct 1 that is generally the eastern part of precinct 1 which extends from the precinct boundary north along South Germantown Tributary (a creek), then east along the center of Schaeffer Road to the precinct boundary;

9. That part of election district 6, precinct 11 that is generally the eastern part of precinct 11 which extends from the precinct boundary northeast along the center of Schaeffer Road, then runs northwest across the Soccerplex at the intersection of Schaeffer Road and Burdette Lane, then west and north along Hoyles Mill Tributary (a creek), then northeast along Little Seneca Creek to the precinct boundary;

10. That part of election district 6, precinct 12 that is generally the eastern part of precinct 12 which extends from the precinct boundary north along Sandy Branch Creek, then north along the center of Potomac Riding Lane to the precinct boundary;

11. That part of election district 9, precinct 1 that is generally the southern part of precinct 1 which extends from the precinct boundary east along the center of CSX railroad tracks to the precinct boundary;

12. That part of election district 9, precinct 8 that is generally the western part of precinct 8 which extends from the precinct boundary southeast along the center of Wisteria Drive, then southwest along the center of Great Seneca Highway to the precinct boundary;

13. That part of election district 9, precinct 10 that is generally the southern part of precinct 10 which extends from the precinct boundary northeast along the center of Washington Grove Lane to the precinct boundary;

14. That part of election district 9, precinct 16 that is generally the southern part of precinct 16 which extends from the precinct boundary south along Interstate 270, then east along CSX railroad tracks to the precinct boundary; and

15. That part of election district 9, precinct 24 that is generally the southwestern part of precinct 24 which extends from the precinct boundary southeast along Interstate 270 to the precinct boundary.

(vii) Board of Education District 3 consists of:

1. Election district 4, precincts 4, 8, 10, 12, 13, 17, 18, 27, 28, 31, and 32;

2. Election district 6, precinct 2;

3. Election district 7;

4. Election district 10;

5. Election district 13, precincts 3, 16, 26, **34,** 38, 39, and 65;

6. That part of election district 4, precinct 15 that is generally the northern part of precinct 15 which extends from the precinct boundary east along the center of Randolph Road to the precinct boundary;

7. That part of election district 4, precinct 20 that is generally the western part of precinct 20 which extends from the precinct boundary north along Piney Branch Creek to the precinct boundary; **AND**

8. That part of election district 6, precinct 12 that is generally the western part of precinct 12 which extends from the precinct boundary north along Sandy Branch Creek, then north along the center of Potomac Riding Lane to the precinct boundary**[**; and

9. That part of election district 13, precinct 34 that is generally the southern part of precinct 34 which extends from the precinct boundary east along CSX railroad tracks to the precinct boundary**]**.

(viii) Board of Education District 4 consists of:

1. Election district 13, precincts 1, 2, 4 through 15, 17 through 25, 27 through 33, 35, 36, 37, 40 through 45, 47, 48, 50, 53, 55, 56, 57, 58, 59, 62, 63, 66, 67, and 68; **AND**

2. That part of election district 4, precinct 15 that is generally the southern part of precinct 15 which extends from the precinct boundary east along the center of Randolph Road to the precinct boundary**[**; and

3. That part of election district 13, precinct 34 that is generally the northern part of precinct 34 which extends from the precinct boundary east along CSX railroad tracks to the precinct boundary**]**.

(ix) Board of Education District 5 consists of:

1. Election district 4, precincts 1, 9, and 34;

2. Election district 5;

3. Election district 8;

4. Election district 13, precincts 46, 49, 51, 52, 54, 61, 64, and 69; and

5. That part of election district 4, precinct 19 that is generally the western part of precinct 19 from the precinct boundary at the intersection of Gude Drive and Calhoun Drive running northeast and approximately 200 feet east of Dubuque Court and Grinnell Terrace, then west along Crabbs Branch Tributary (a creek), then north along the center of Ottenbrook Terrace, then northeast along the center of Deer Lake Lane, then east along the center of Deer Lake Road, then west along the center of Needwood Road to the precinct boundary.

(4) (i) The student member serves for a term of 1 year beginning on July 1 after the election.

(ii) The student member shall be replaced for the remainder of the term by the alternate student member if the student member:

1. Resigns or otherwise is unable to complete the term; or

2. Is removed under the provisions of subsection (g) of this section.

(iii) The elected members of the county board shall select a student to complete the remainder of the term if the student member is replaced as provided in subparagraph (ii) of this paragraph and the alternate member:

1. Resigns or otherwise is unable to complete the term; or

2. Is removed under the provisions of subsection (g) of this section.

(5) The remaining members of the county board shall select a qualified individual to fill any vacancy on the elected board for the remainder of that term and until a successor is elected and qualifies.

(6) (i) Subject to subparagraph (ii) of this paragraph, an elected county board member shall forfeit the office if the member fails to reside in the board of education district from which the member was elected.

(ii) If the failure to continue to reside in the district is caused by an alteration in the board of education district boundaries because of reapportionment, the member may complete the term for which the member was elected.

(iii) In the event of a vacancy caused by a member who is required to reside in a particular board of education district, the person appointed to fill the vacancy shall reside in the same district at the time of appointment and while filling out the unexpired term.

(g) (1) The Montgomery County Council may remove a member of the county board for:

(i) Immorality;

(ii) Misconduct in office;

(iii) Incompetency; or

(iv) Willful neglect of duty.

(2) Before removing a member, the County Council shall provide the member a copy of the charges against him and give him an opportunity within 10 days to request a hearing.

(3) If the member requests a hearing within the 10–day period:

(i) The County Council promptly shall hold a hearing, but a hearing may not be set within 10 days after the County Council sends the member a notice of the hearing; and

(ii) The member shall have an opportunity to be heard publicly before the County Council in the member's own defense, in person or by counsel.

(4) A member removed under this subsection has the right to a de novo review of the removal by the Circuit Court for Montgomery County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2013~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by

three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 9, 2013.

Chapter 133

(House Bill 672)

AN ACT concerning

Montgomery County – Consumption of Wine Not Bought from License Holder – Class H Licenses

MC 17–13

FOR the purpose of allowing an individual in a restaurant, club, or hotel in Montgomery County for which a Class H alcoholic beverages license is issued the privilege of consuming wine not purchased from or provided by the license holder only under certain circumstances; imposing a certain duty on the Montgomery County Board of License Commissioners; allowing the license holder under this Act to charge the individual a certain fee for the privilege allowed under this Act; requiring the license holder under this Act to dispose of any unfinished wine; allowing the individual to remove partially consumed wine if the license holder inserts a cork or places a cap on the bottle; imposing a certain restriction on the license holder; making certain stylistic changes; and generally relating to the consumption of wine in Montgomery County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 12–107(b)(10)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

12–107.

(b) (10) (i) **THIS PARAGRAPH APPLIES ONLY TO A RESTAURANT, CLUB, OR HOTEL FOR WHICH:**

1. IN ANY JURISDICTION IN THE STATE, A CLASS B OR CLASS C LICENSE ALLOWING THE SALE OF WINE IS ISSUED; OR

2. IN MONTGOMERY COUNTY, A CLASS H LICENSE ALLOWING THE SALE OF WINE IS ISSUED.

(II) An individual in a restaurant, club, or hotel **[**for which a Class B or Class C license allowing the sale of wine is issued**]** may consume wine not purchased from or provided by the license holder only if:

1. The wine is consumed with a meal during the hours of sale specified by the license;

2. The individual receives the approval of the license holder;

3. The wine is not available for sale on the license holder's wine list; and

4. The license holder obtains a permit from the local licensing board before allowing an individual the privilege of consuming wine not purchased from or provided by the license holder.

[(ii)**](III)** A local licensing board shall issue a permit at no charge to each license holder who seeks to allow an individual to consume wine under the conditions specified in subparagraph **[**(i)**](II)** of this paragraph.

[(iii)**](IV)** A license holder that allows an individual the privilege of consuming wine described under subparagraph **[**(i)**](II)** of this paragraph may determine and charge the individual a fee for the privilege, on which a sales tax shall be imposed.

[(iv)**](V)** Except as provided in subparagraph **[**(v)**](VI)** of this paragraph, the license holder shall dispose of wine described under subparagraph **[**(i)**](II)** of this paragraph that remains after the meal is finished.

[(v)**](VI)** The individual may remove from the licensed premises a bottle of wine, the contents of which are only partially consumed with the meal, if the license holder or an employee of the license holder inserts a cork in or places a cap on the bottle.

[(vi)**](VII)** A bottle of wine that is removed from the licensed premises under subparagraph **[**(v)**](VI)** of this paragraph is an "open container" for purposes of § 10–125 of the Criminal Law Article.

[(vii)**] (VIII)** A license holder may not allow an individual who is under 21 years old or who is visibly under the influence of an alcoholic beverage the privilege of consuming wine described under subparagraph **[**(i)**] (II)** of this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 134

(House Bill 675)

AN ACT concerning

Montgomery County – Property Tax Credit for Qualified Enterprise Zone Property – Burtonsville

MC 14–13

FOR the purpose of altering a certain definition of "qualified enterprise zone property" as it relates to a certain property tax credit granted by the governing body of Montgomery County or of a municipal corporation in Montgomery County to include certain property zoned for certain uses located in the area encompassed by the Burtonsville Crossroads Neighborhood Plan; providing for the application of this Act; and generally relating to a property tax credit granted by Montgomery County or a municipal corporation in Montgomery County against county or municipal property tax imposed on an eligible business entity on qualified enterprise zone property.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–317(f)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

9–317.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Eligible business entity" means a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the qualified enterprise zone property.

(iii) "Qualified enterprise zone property" means real property that:

1. **A.** is not used for residential purposes;

[2.**]** **B.** is used in a trade or business by an eligible business entity;

[3.**]** **C.** is located in an enterprise zone that is designated under Title 5, Subtitle 7 of the Economic Development Article; and

[4.**]** **D.** is eligible for the property tax credit under § 9–103 of this title**; OR**

2. A. IS LOCATED WITHIN THE AREA ENCOMPASSED BY THE BURTONSVILLE CROSSROADS NEIGHBORHOOD PLAN DEVELOPED BY THE MONTGOMERY COUNTY PLANNING DEPARTMENT;

B. IS ZONED FOR COMMERCIAL OR COMMERCIAL/RESIDENTIAL MIXED USE DEVELOPMENT; AND

C. HAS HAD IMPROVEMENTS MADE ON IT ON OR BEFORE JANUARY 1, 2020.

(2) Subject to paragraphs (4) and (5) of this subsection, the governing body of Montgomery County or of a municipal corporation in Montgomery County may grant, by law, a property tax credit against the county or municipal corporation property tax imposed on:

(i) improvements made by an eligible business entity to qualified enterprise zone property; and

(ii) personal property owned by an eligible business entity located on qualified enterprise zone property.

(3) (i) The governing body of Montgomery County or of a municipal corporation in Montgomery County may provide, by law, for:

1. the amount and duration of a credit under this subsection;

2. additional eligibility criteria for a credit under this subsection; and

3. any other provision necessary to carry out a credit under this subsection.

(ii) The governing body of Montgomery County or of a municipal corporation in Montgomery County shall define, by law, the improvements eligible for a credit under this subsection.

(4) The lessor of real property granted a credit under paragraph (2)(i) of this subsection shall reduce the amount of taxes for which an eligible business entity is contractually liable under the lease agreement by the amount of any credit granted under paragraph (2)(i) of this subsection for improvements made by the eligible business entity.

(5) The lessor of real property that receives a credit under § 9–103 of this title may not be granted a credit under this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, April 9, 2013.

Chapter 135

(House Bill 677)

AN ACT concerning

Montgomery County – Property Tax Credit for Qualified Enterprise Zone Property – Glenmont

MC 18–13

FOR the purpose of altering a certain definition of "qualified enterprise zone property" as it relates to a certain property tax credit granted by the governing body of Montgomery County or of a municipal corporation in Montgomery County to include certain property zoned for certain uses located in certain parts of the area encompassed by the Glenmont Sector Plan; providing for the application of this Act; and generally relating to a property tax credit granted by Montgomery County or a municipal corporation in Montgomery County against county or municipal property tax imposed on an eligible business entity on qualified enterprise zone property.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–317(f)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

9–317.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Eligible business entity" means a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the qualified enterprise zone property.

(iii) "Qualified enterprise zone property" means real property that:

1. **A.** is not used for residential purposes;

[2.**]** **B.** is used in a trade or business by an eligible business entity;

[3.**]** **C.** is located in an enterprise zone that is designated under Title 5, Subtitle 7 of the Economic Development Article; and

[4.**]** **D.** is eligible for the property tax credit under § 9–103 of this title**; OR**

2. A. IS LOCATED WITHIN THE AREA ENCOMPASSED BY THE GLENMONT SHOPPING CENTER AREA, THE METRO STATION/LAYHILL TRIANGLE BLOCK, <u>THE WINEXBURG MANOR APARTMENTS AREA, THE GLENMONT FOREST APARTMENTS AREA,</u> AND THE PRIVACY WORLD AREA OF THE GLENMONT SECTOR PLAN DEVELOPED BY THE MONTGOMERY COUNTY PLANNING DEPARTMENT;

B. IS ZONED FOR COMMERCIAL OR COMMERCIAL/RESIDENTIAL MIXED USE DEVELOPMENT; AND

C. HAS HAD IMPROVEMENTS MADE ON IT ON OR BEFORE JANUARY 1, 2025.

(2) Subject to paragraphs (4) and (5) of this subsection, the governing body of Montgomery County or of a municipal corporation in Montgomery County may grant, by law, a property tax credit against the county or municipal corporation property tax imposed on:

(i) improvements made by an eligible business entity to qualified enterprise zone property; and

(ii) personal property owned by an eligible business entity located on qualified enterprise zone property.

(3) (i) The governing body of Montgomery County or of a municipal corporation in Montgomery County may provide, by law, for:

1. the amount and duration of a credit under this subsection;

2. additional eligibility criteria for a credit under this subsection; and

3. any other provision necessary to carry out a credit under this subsection.

(ii) The governing body of Montgomery County or of a municipal corporation in Montgomery County shall define, by law, the improvements eligible for a credit under this subsection.

(4) The lessor of real property granted a credit under paragraph (2)(i) of this subsection shall reduce the amount of taxes for which an eligible business entity is contractually liable under the lease agreement by the amount of any credit granted under paragraph (2)(i) of this subsection for improvements made by the eligible business entity.

(5) The lessor of real property that receives a credit under § 9–103 of this title may not be granted a credit under this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, April 9, 2013.

Chapter 136

(House Bill 733)

AN ACT concerning

Local Government – Cross–References and Corrections

FOR the purpose of correcting certain cross–references to the Local Government Article in the Annotated Code of Maryland; correcting certain errors and omissions in and relating to the Local Government Article; clarifying the application of certain provisions; making certain conforming changes; deleting certain obsolete references; providing for the construction and effect of certain provisions of the Local Government Article; making stylistic changes; and generally relating to the Local Government Article and cross–references and corrections to it.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–109(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 1–203(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 1–204(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–401(10)(i), (vi), (ix), and (xiii), 5–114(a)(5), 5–301(d)(1), (2), (3), and (5), 6–410(b)(1), 7–409(a)(2)(xvi), 7–501(c), and 12–401(d)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–110(j)(1)(ii) and 13–302(m)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 13–104 and 15–414(e)(2)(ii)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–111(a), 10–340(g)(1), 10–508(a)(3), 12–112(b), 12–115, 12–205(d)(3), 12–304(d)(1), and 12–308(d)(3)
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 3–203(a)(1)(i), 4–306.2(p)(1), and 5–602(d), (g), and (j)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 2–204(a)(1), 6–102(b), 7–101(7) and (8), 7–102(f)(2), 9–104(h), and 13–604(d)(2)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–206(d)(1), 9–505(a)(1), 9–506(a)(1)(ii), 9–697(d), 9–1608(c), 9–1614(b), and 15–504(a)(2)(iii)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–108(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 7–116 and 7–223
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 14–402(a)(2)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–231(c)(1), 4–239(d)(6), 4–247(b)(6), 4–1608(a)(2), and 4–1609(a)
Annotated Code of Maryland
(2006 Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–404(a)(2)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Land Use
Section 1–101(c) and (d), 1–204(a), 1–206, 1–207(a), 1–301(2), 1–302(4), 1–402, 1–501, 5–104(a)(5)(ii), 9–1607(b), 9–1608(b), 11–206, 17–208(g), 18–211, 22–403(a)(1), and 23–102(c)
Annotated Code of Maryland
(2012 Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–107(b), 3–122(b)(1) and (4), 3–908(d), 3–915, 5–307(h), and 8–1103(i)(2)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–1004(c)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 22–204(b), 29–101(h), and 29–102(g)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 10–704(a), 10–706(b), 10–707(b), and 11B–104(c)

Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5–606(b), 6–222(a)(8), 8–117(c), and 8–202
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 2–1220(d)(1)(i), 2–1237(a)(14), 15–802, and 15–853(d)(4)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 4–103(a)(4) and 11–102(c)(1)(iii)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 7–243 and 9–102(a)(3)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 5–419(c), 8–610(h), and 8–630(a)(2)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

15–109.

(b) In Allegany County the annual salary of the members of the Board of License Commissioners shall be set by the County Commissioners in accordance with **[**Article 24, Title 12, Subtitle 1 of the Code**]** **TITLE 28, SUBTITLE 1 OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Business Occupations and Professions

1–203.

(b) Except as otherwise provided in this article or **[**Article 24, Title 11 of the Code**] TITLE 13, SUBTITLE 1 AND SUBTITLE 3, PART I AND §§ 13–205 AND 16–115 OF THE LOCAL GOVERNMENT ARTICLE AND TITLE 17, SUBTITLE 4, PARTS V AND VI OF THE BUSINESS REGULATION ARTICLE**, a county, municipal corporation, or other political subdivision of the State may not:

(1) require a local license in that county, municipal corporation, or political subdivision to engage in a business or occupation for which a State license is required under this article; or

(2) impose a local fee or tax to engage in a business or occupation for which a State license is required under this article.

Article – Business Regulation

1–204.

(b) Except as otherwise provided in this article or **[**Article 24, Title 11 of the Code**] TITLE 13, SUBTITLE 1 AND SUBTITLE 3, PART I AND §§ 13–205 AND 16–115 OF THE LOCAL GOVERNMENT ARTICLE**, a county, municipal corporation, or other political subdivision of the State may not:

(1) require a local license in that county, municipal corporation, or political subdivision to engage in a business or occupation for which a State license is required under this article; or

(2) impose a local fee or tax to engage in a business or occupation for which a State license is required under this article.

Article – Courts and Judicial Proceedings

4–401.

Except as provided in § 4–402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(10) A proceeding for adjudication of:

(i) A municipal infraction as **[**defined in Article 23A, § 3(b)(1) of the Code**] DESCRIBED IN § 6–102 OF THE LOCAL GOVERNMENT ARTICLE**;

(vi) A violation of an ordinance enacted:

1. By a charter county for which a civil penalty is provided under **[**Article 25A, § 5(A) of the Code**]** **§ 10–202 OF THE LOCAL GOVERNMENT ARTICLE**;

2. By the Mayor and City Council of Baltimore for which a civil penalty is provided by ordinance; or

3. By a code county for which a civil citation is issued under **[**Article 25B, § 13C–1 of the Code**]** **TITLE 11, SUBTITLE 3 OF THE LOCAL GOVERNMENT ARTICLE**;

(ix) A violation of an ordinance or regulation enacted by a county without home rule, under authority granted under **[**Article 25 of the Code**]** **THE LOCAL GOVERNMENT ARTICLE**, or any provision of the Code of Public Local Laws for that county, for which a civil penalty is provided;

(xiii) A civil infraction relating to the storage or distribution of tobacco products under **[**Article 24, Title 15 of the Code**]** **TITLE 1, SUBTITLE 12 OF THE LOCAL GOVERNMENT ARTICLE**;

5–114.

(a) (5) "Local government" means:

(i) A **[**chartered**]** **CHARTER** county **[**established under Article 25A of the Code**]** **AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**;

(ii) A code county **[**established under Article 25B of the Code**]** **AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**;

(iii) A board of county commissioners **[**established or operating under Article 25 of the Code**]**;

(iv) Baltimore City;

(v) A **[**municipal corporation established or operating under Article 23A of the Code**]** **MUNICIPALITY AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**;

(vi) A special taxing district; or

(vii) Any other political subdivision.

5–301.

(d) "Local government" means:

(1) A **[**chartered**]** **CHARTER** county **[**established under Article 25A of the Code**]** **AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**;

(2) A code county **[**established under Article 25B of the Code**]** **AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**;

(3) A board of county commissioners **[**established or operating under Article 25 of the Code**]**;

(5) A **[**municipal corporation established or operating under Article 23A of the Code**]** **MUNICIPALITY AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**;

6–410.

(b) If the custodian of public records is not known and cannot be ascertained after a reasonable effort by a party in a legal proceeding, the party may request a court to issue a subpoena for the custodian of public records to be served on:

(1) A resident agent designated under **[**Article 24, § 1–110 of the Code**]** **§ 1–1301 OF THE LOCAL GOVERNMENT ARTICLE** for service on a local entity;

7–409.

(a) (2) "Crime" means an act committed by a person in the State that is:

(xvi) A crime under **[**Article 24, § 11–512, § 11–513, or § 11–514 of the Code**]** **§ 13–118(D), § 13–120(D), § 13–121(G), § 13–123(E), § 13–124(D), § 13–129(G), § 13–131(C), OR § 13–133(D) OF THE LOCAL GOVERNMENT ARTICLE**;

7–501.

(c) (1) "Crime" means any act or omission for which a statute or ordinance imposes a fine or imprisonment.

(2) "Crime" does not include a municipal infraction under **[**Article 23A, § 3 of the Code**]** **TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE**.

12–401.

(d) (1) A defendant who has been found guilty of a municipal infraction, as **[**defined in Article 23A, § 3(b)(1) of the Code**]** **DESCRIBED IN § 6–102 OF THE**

LOCAL GOVERNMENT ARTICLE or a Code violation under § 10–119 of the Criminal Law Article, may appeal from the final judgment entered in the District Court.

Article – Criminal Law

10–110.

(j) (1) The legislative body of a municipal corporation may:

(ii) classify littering as a municipal infraction under **[**Article 23A, § 3(b) of the Code**] TITLE 6 OF THE LOCAL GOVERNMENT ARTICLE**.

13–302.

(m) The Board of County Commissioners may adopt an ordinance or resolution declaring that a violation of this section or a rule or regulation adopted under this section is:

(1) a civil infraction under **[**Article 25B, § 13C of the Code**] TITLE 11, SUBTITLE 2 OF THE LOCAL GOVERNMENT ARTICLE**; or

(2) a misdemeanor punishable by a term of imprisonment not exceeding 30 days or a fine not exceeding $1,000 or both.

Article – Criminal Procedure

13–104.

Pending final disposition, the financial authority shall account for and deposit seized money in an interest–bearing bank account or invest the seized money in accordance with **[**Article 95 of the Code**] TITLE 17 OF THE LOCAL GOVERNMENT ARTICLE**.

15–414.

(e) (2) The financial audit shall be:

(ii) included in the annual audit of the county required by **[**Article 19, § 40 of the Code**] §§ 16–305 THROUGH 16–308 OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Economic Development

10–111.

(a) (1) Except as otherwise provided in this section, in exercising its powers, the Corporation:

(i) may carry out its corporate purposes without the consent of any State unit; and

(ii) is not subject to:

1. Title 12, Subtitles 1 through 3 of this article;

2. THE FOLLOWING PROVISIONS OF THE LOCAL GOVERNMENT ARTICLE:

A. TITLE 18, SUBTITLE 1 (PARKING AUTHORITIES ACT); AND

B. TITLE 18, SUBTITLE 2 (OCEAN CITY CONVENTION CENTER);

[2.**]** **3.** the following provisions of the State Finance and Procurement Article:

A. Title 2, Subtitles 2 (Gifts and Grants), 4 (Water and Sewerage Systems), and 5 (Facilities for the Handicapped);

B. Title 3 (Budget and Management);

C. Title 4 (Department of General Services);

D. Title 5A (Division of Historical and Cultural Programs);

E. Title 6, Subtitle 1 (Studies and Estimates);

F. Title 7, Subtitles 1 (State Operating Budget), 2 (Disbursements and Expenditures), and 3 (Unspent Balances);

G. §§ 8–127, 8–128, and 8–129 (certain restrictions on State general obligation bonds);

H. Title 8, Subtitle 1, Part V (State Revenue Anticipation Notes);

I. Title 10 (Board of Public Works – Miscellaneous Provisions); and

J. Division II (General Procurement Law);

[3.**] 4.** the following provisions of the State Government Article:

A. Title 9, Subtitles 10 (State Archives and Artistic Property) and 17 (Maryland State Employees Surety Bond Committee);

B. §§ 10–505 and 10–507 (certain open meetings provisions); and

C. Title 11 (Consolidated Procedures for Development Permits); and

[4.**] 5.** Article 41 of the Code.

(2) The Corporation is subject to the Public Information Act.

10–340.

(g) (1) "Public obligation" means a bond, note, evidence of indebtedness, or other obligation, to repay borrowed money issued by the Authority, the State, a unit, instrumentality, or public corporation of the State, **[**a public body as defined in Article 31, § 9 of the Code**] A GOVERNMENTAL ENTITY DESCRIBED IN § 19–205(A) OF THE LOCAL GOVERNMENT ARTICLE**, a county, or a municipal corporation.

10–508.

(a) The Corporation is exempt from:

(3) **[**Article 31, §§ 9, 10, and 11 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE** (Conditions upon Sale of Public Securities).

12–112.

(b) A bond is not subject to the limitations of **[**Article 31, §§ 9, 10, and 11 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE**.

12–115.

Instead of the procedures under this subtitle, a municipal corporation, by charter amendment adopted under **[**Article 23A of the Code**] TITLE 4, SUBTITLE 3 OF THE LOCAL GOVERNMENT ARTICLE**, or a charter county, by charter amendment adopted under Article XI–A of the Maryland Constitution, may provide for the issuance of revenue bonds under the terms and conditions that the municipal

corporation or charter county considers appropriate to achieve the legislative purposes of this subtitle.

12–205.

(d) (3) Bonds are exempt from **[**Article 31, §§ 9, 10, and 11 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE**.

12–304.

(d) (1) This subsection does not apply to a county that is **[**subject to Article 25A or Article 25B of the Code**] A CHARTER COUNTY, AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE, OR A CODE COUNTY, AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**.

12–308.

(d) (3) A bond is not subject to **[**Article 31, §§ 9, 10, and 11 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Education

3–203.

(a) (1) Except for the ex officio member, each elected county board member is entitled to:

(i) An annual salary set by the Allegany County Commissioners in accordance with **[**Article 24, Title 12, Subtitle 1 of the Code**] TITLE 28, SUBTITLE 1 OF THE LOCAL GOVERNMENT ARTICLE**; and

4–306.2.

(p) (1) The board may provide, from time to time, for the issuance and sale of bond anticipation notes in accordance with the procedures set forth in **[**Article 31, § 12 of the Code**] TITLE 19, SUBTITLE 2, PART III OF THE LOCAL GOVERNMENT ARTICLE** for the issuance of bonds.

5–602.

(d) The bonds shall:

(1) Be dated and bear interest at a rate specified in the resolution;

(2) Mature within 30 years of the date of issuance of the bonds;

(3) Be issued at, above, or below par value, for cash or other consideration;

(4) Be payable at a time, in the denomination, in registered form, within the meaning of **[**Article 31, § 30 of the Code**] § 19–204 OF THE LOCAL GOVERNMENT ARTICLE**, as specified in the resolution;

(5) Carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds, as specified in the resolution;

(6) Be payable in lawful money of the United States of America at a designated place;

(7) Be subject to the terms and conditions specified in the resolution; and

(8) Be sold in the manner, including private or negotiated sale, and upon the terms, specified in the resolution.

(g) The bonds, their issue, and their sale may be exempt from the provisions of **[**Sections 9, 10, and 11 of Article 31 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE**.

(j) Before the preparation of bonds, the county may issue bond anticipation notes in accordance with **[**Article 31, § 12 of the Code**] TITLE 19, SUBTITLE 2, PART III OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Election Law

2–204.

(a) Each regular member of a local board shall receive the salary and reimbursement of expenses provided in the county budget, but in no event may the annual compensation be less than the following amounts:

(1) in Allegany County, the amount set by the County Commissioners under **[**Article 24, Title 12, Subtitle 1 of the Code**]** ~~**ARTICLE**~~ **TITLE 28, SUBTITLE 1 OF THE LOCAL GOVERNMENT ARTICLE**;

6–102.

(b) This title does not apply to a petition filed pursuant to **[**Article 23A of the Code**] DIVISION II OF THE LOCAL GOVERNMENT ARTICLE**.

7–101.

This title applies to the following types of ballot questions:

(7) a question on an enactment of a charter county pursuant to **[**Article 25A, § 8 of the Code**] § 9–205 OF THE LOCAL GOVERNMENT ARTICLE** or a code county pursuant to **[**Article 25B, § 10 of the Code**] §§ 9–310 THROUGH 9–313 OF THE LOCAL GOVERNMENT ARTICLE**;

(8) a question relating to the incorporation of a new municipality pursuant to **[**Article 23A, § 21 of the Code**] § 4–204 OF THE LOCAL GOVERNMENT ARTICLE**;

7–102.

(f) (2) A question on an enactment by a code county qualifies pursuant to local law and **[**Article 25B, § 10 of the Code**] §§ 9–310 THROUGH 9–313 OF THE LOCAL GOVERNMENT ARTICLE**.

9–104.

(h) **[**Article 31, §§ 9 through 11 of the Code**] SECTIONS 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE** do not apply to bonds issued under this section.

13–604.

(d) (2) The trial in the District Court shall be conducted in the same manner as set forth for municipal infractions under **[**Article 23A, § 3(b)(8) through (15) of the Code**] §§ 6–108, 6–109, AND 6–111 THROUGH 6–115 OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Environment

9–206.

(d) Subsections (f) through (i) and subsection (l) of this section do not:

(1) Affect a local transfer of development rights program authorized under **[**Article 25A, § 5(X) of the Code**] § 10–324 OF THE LOCAL GOVERNMENT ARTICLE** or Title 7, Subtitle 2 or § 22–105 of the Land Use Article; or

9–505.

(a) In addition to the other requirements of this subtitle, each county plan shall:

(1) Provide for the orderly expansion and extension of the following systems in a manner consistent with all county and local comprehensive plans prepared under Title 1, Subtitle 4, Title 3, or Title 21 of the Land Use Article, **[**Article 25A, § 5(X) of the Code, and Article 25B, § 13 of the Code**] § 10–324 OF THE LOCAL GOVERNMENT ARTICLE**:

(i) Community water supply systems and multiuse water supply systems;

(ii) Community sewerage systems and multiuse sewerage systems; and

(iii) Solid waste disposal systems and solid waste acceptance facilities;

9–506.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, before a county governing body may adopt a county plan or a revision or amendment to the county plan:

(ii) The county planning agency shall certify that the plan, revision, or amendment is consistent with the county comprehensive plan prepared under Title 1, Subtitle 4 or Title 3 of the Land Use Article~~,~~ **[**Article 25A, § 5(X) of the Code, or Article 25B, § 13 of the Code**] OR § 10–324 OF THE LOCAL GOVERNMENT ARTICLE**.

9–697.

(d) The provisions of **[**Article 31, §§ 9 through 11 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE** do not apply to bonds issued under this subtitle.

9–1608.

(c) The bonds shall be exempt from the provisions of **[**§§ 10 and 11 of Article 31**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE** ~~of the Annotated Code of Maryland~~ and §§ 8–206 and 8–208 of the State Finance and Procurement Article, and the Administration may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine.

9–1614.

(b) Notwithstanding any other provision of public general or public local law, charter, or ordinance regulating the creation of public debts or the making of contracts, a local government may enter into a loan agreement with the

Administration for the purpose of financing all or a portion of the cost of a wastewater facility or water supply system. The express powers contained and enumerated in **[**Articles 23A, 25A, and 25B of the Annotated Code of Maryland**]** **TITLES 5 AND 10 OF THE LOCAL GOVERNMENT ARTICLE** and in the charter of the City of Baltimore are deemed to incorporate and include the power and authority contained in this section.

15–504.

(a) (2) (iii) The county fiscal authority shall notify the Department in writing by no later than December 15 of those open–pit mining operators who have not paid all of their county coal severance taxes and surcharges, including any interest and penalties for late payment, that are due through the previous month of November, as provided under **[**Article 24, §§ 9–501, 9–502, and 9–509 of the Code**]** **§§ 20–301 THROUGH 20–303 AND 20–308 OF THE LOCAL GOVERNMENT ARTICLE** and § 15–509 of this subtitle. The county fiscal authority shall send this notice of nonpayment to the affected operator at the same time that the county fiscal authority notifies the Department. In the absence of this notification, the Department shall presume that all coal severance taxes and surcharges, including any interest and penalties for late payment, have been paid. The Department may not renew a person's open–pit mining operator's license unless all of that person's county coal severance taxes and surcharges, including any interest and penalties for late payment, that are due through the previous month of November have been paid.

Article – Estates and Trusts

2–108.

(b) Each of the judges of the Court for Allegany County shall receive an annual salary set by the County Commissioners in accordance with **[**Article 24, Title 12, Subtitle 1 of the Code**]** **TITLE 28, SUBTITLE 1 OF THE LOCAL GOVERNMENT ARTICLE**. Each judge shall also receive an expense allowance in the amount of $600 annually, to be paid at the rate of $50 monthly.

Article – Financial Institutions

7–116.

The Corporation is exempt from all taxes imposed by this State or any of its political subdivisions under **[**Title 9 of Article 24 of the Code**]** **§§ 20–101, 20–104, 20–108, 20–113 THROUGH 20–127, 20–601, 20–603 THROUGH 20–609, 20–805, AND 20–806, AND TITLE 20, SUBTITLES 3 THROUGH 5 OF THE LOCAL GOVERNMENT ARTICLE**, Title 6, Subtitle 1 of the Insurance Article, the Tax – General Article, or the Tax – Property Article.

7–223.

A credit union share guaranty corporation that is a nonprofit corporation exempt from federal taxation under § 501(c)(6) of the Internal Revenue Code is exempt from all taxes imposed by the State or any of its subdivisions under:

(1) **[**Article 24, Title 9 of the Code**] §§ 20–101, 20–104, 20–108, 20–113 THROUGH 20–127, 20–601, 20–603 THROUGH 20–609, 20–805, AND 20–806, AND TITLE 20, SUBTITLES 3 THROUGH 5 OF THE LOCAL GOVERNMENT ARTICLE**;

(2) Title 6, Subtitle 1 of the Insurance Article;

(3) The Tax – General Article; or

(4) The Tax – Property Article.

Article – Health – General

14–402.

(a) This subtitle and the regulations issued under this subtitle do not apply to:

(2) Subject to subsection (b) of this section, programs or activities directed or operated by a board of recreation, recreation department, or similar public unit of a county, a **[**municipal corporation, as defined by Article 23A of the Code**] MUNICIPALITY, AS DEFINED BY § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**, or the Maryland–National Capital Park and Planning Commission, that involve use of neighborhood facilities, including:

(i) Schools;

(ii) Playgrounds;

(iii) Parks; or

(iv) Recreation centers;

Article – Housing and Community Development

4–231.

(c) (1) A local obligation that an issuer issues under this part shall have all the attributes of a negotiable instrument under **[**Article 31, § 8 of the Code**] § 19–224 OF THE LOCAL GOVERNMENT ARTICLE**.

4–239.

(d) (6) Notwithstanding any other law, a loan to a mortgage lender and the collateral for it are not subject to **[**Article 95, § 22 of the Code**] §§ 17–101 AND 17–102 OF THE LOCAL GOVERNMENT ARTICLE** or to § 6–202, § 6–205, § 6–206, § 6–209, or § 6–210 of the State Finance and Procurement Article.

4–247.

(b) A trust agreement or a determination authorizing the issuance of bonds or notes may contain:

(6) provisions on investments of money of the Administration as the Administration provides, notwithstanding **[**Article 95, § 22 of the Code**] §§ 17–101 AND 17–102 OF THE LOCAL GOVERNMENT ARTICLE** and §§ 6–202, 6–205, 6–206, 6–209, and 6–210 of the State Finance and Procurement Article;

4–1608.

(a) (2) The bonds are not subject to **[**Article 31, §§ 9, 10, and 11 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE**.

4–1609.

(a) A covered county may issue new bonds to pay outstanding bonds in accordance with procedures of this subtitle and **[**Article 31, § 24 of the Code**] § 19–207 OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Labor and Employment

9–404.

(a) (2) Notwithstanding the local government guidelines set forth in **[**Article 95, § 22 of the Code**] §§ 17–101 AND 17–102 OF THE LOCAL GOVERNMENT ARTICLE**, the guidelines required by paragraph (1)(ii) of this subsection shall:

(i) state the types of investment in which moneys may be invested;

(ii) include guidance for the prudent investment of moneys based on claim experience, cash flow projections, income, liquidity, investment ratings, and risk;

(iii) authorize investments of moneys in equities, provided that investments do not exceed 30 percent of the surplus moneys;

(iv) provide that moneys not invested in equities shall be invested in accordance with **[**Article 95, § 22 of the Code**] §§ 17–101 AND 17–102 OF THE LOCAL GOVERNMENT ARTICLE**; and

(v) prohibit borrowing of funds for the express purpose of investing those funds.

Article – Land Use

1–101.

(c) "Charter county" means a county that has adopted charter home rule under Article XI–A of the Maryland Constitution **[**and Article 25A of the Code**]**.

(d) "Code county" means a county that has adopted code home rule under Article XI–F of the Maryland Constitution **[**and Article 25B of the Code**]**.

1–204.

(a) Other public general laws that may affect land use in a local jurisdiction under this division, Division II of this article, or otherwise, include:

(1) **[**Article 23A, §§ 2(30) and (36), 9, 19, and 19A(e) of the Code;

(2) Article 25, § 3 of the Code;

(3) Article 25A, § 5 of the Code;

(4) Article 25B, § 13 of the Code**] THE LOCAL GOVERNMENT ARTICLE**; and

[(5)**] (2)** Title 8, **[**subtitle**] SUBTITLE** 18 of the Natural Resources Article.

1–206.

(a) (1) In this subsection, "planning commission" includes a planning commission or board established under:

(i) Title 2 of this article;

(ii) Division II of this article; or

(iii) **[**Article 25A of the Code**] TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE**.

(2) Within 6 months after appointment to a planning commission, a member shall complete an education course that includes education on:

(i) the role of the comprehensive plan;

(ii) if applicable, proper standards for special exceptions and variances; and

(iii) the local jurisdiction's local laws and regulations relating to zoning, planned development, subdivision, and other land use matters.

(3) The failure of a member to complete an education course under this subsection may not:

(i) invalidate a decision of the planning commission; or

(ii) be construed to create a private cause of action by any person.

(b) (1) In this subsection, "board of appeals" includes a board of appeals established under:

(i) Title 4, Subtitle 3 of this article;

(ii) § 10–403 of this article;

(iii) Division II of this article; or

(iv) **[**Article 25A of the Code**]** **TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE**.

(2) Within 6 months after appointment to a board of appeals, a member shall complete an education course that includes education on:

(i) the role of the comprehensive plan;

(ii) proper standards for special exceptions and variances; and

(iii) the local jurisdiction's local laws and regulations relating to zoning, planned development, subdivision, and other land use matters.

(3) The failure of a member to complete an education course under this subsection may not:

(i) invalidate a decision of the board; or

(ii) be construed to create a private cause of action by any person.

1–207.

(a) In this section, "planning commission" includes a planning commission or board established under:

(1) Title 2 of this article;

(2) Division II of this article; or

(3) **[**Article 25A of the Code**]** **TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE**.

1–301.

In this subtitle, "action" means:

(2) a requirement under § 9–505(a)(1) of the Environment Article and **[**Article 23A, § 19(o)(3)(iii) of the Code**]** **§ 4–415(C) OF THE LOCAL GOVERNMENT ARTICLE** (Municipal annexation); or

1–302.

This subtitle applies to:

(4) **[**Article 23A, § 19(o)(3)(iii) of the Code**]** **§ 4–414(C) OF THE LOCAL GOVERNMENT ARTICLE** (Annexation plan).

1–402.

(a) In addition to the powers the county may have had under this division before adopting code home rule, a code county may exercise the powers relating to land use stated in **[**Article 25A of the Code**]** **TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE**.

(b) A code county that chooses to exercise the powers relating to land use stated in **[**Article 25A of the Code**]** **TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE** shall be treated as a charter county for purposes of § 1–401 of this subtitle.

1–501.

In this subtitle, "planning board":

(1) means a planning board established under this article; and

(2) includes a planning commission or board established under Division II of this article or **[**Article 25A of the Code**] TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE**.

5–104.

(a) (5) (ii) "Planning board" includes a planning commission or board established under Division II of this article or **[**Article 25A of the Code**] TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE**.

9–1607.

(b) In a proceeding before the District Court, a subdivision violation shall be enforced in the same manner and to the same extent as a municipal infraction under **[**Article 23A, § 3(b) of the Code**] §§ 6–102 THROUGH 6–115 OF THE LOCAL GOVERNMENT ARTICLE**.

9–1608.

(b) In a proceeding before the District Court, a zoning violation shall be enforced in the same manner and to the same extent as a municipal infraction under **[**Article 23A, § 3(b) of the Code**] §§ 6–102 THROUGH 6–115 OF THE LOCAL GOVERNMENT ARTICLE**.

11–206.

In a proceeding before the District Court, a violation shall be adjudicated in the same manner and to the same extent as a municipal infraction under **[**Article 23A, § 3(b)(7) through (15) of the Code**] §§ 6–108 THROUGH 6–115 OF THE LOCAL GOVERNMENT ARTICLE**.

17–208.

(g) In a proceeding for a Commission infraction before the District Court, the violation shall be prosecuted in the same manner and to the same extent as provided for municipal infractions under **[**Article 23A, § 3(b) of the Code**] §§ 6–102 THROUGH 6–115 OF THE LOCAL GOVERNMENT ARTICLE**.

18–211.

The sale of the bonds under this title is exempt from **[**Article 31, §§ 10 and 11 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE**.

22–403.

(a) (1) Notwithstanding **[**Article 25A, § 5(U) of the Code**] § 10–305 OF THE LOCAL GOVERNMENT ARTICLE**, judicial review of a decision by the board of appeals on an application for a zoning variance or special exception may be requested by any person or municipal corporation that appeared at the hearing in person, by attorney, or in writing.

23–102.

(c) A subdivision in a municipal corporation with subdivision authority under **[**Article 23A of the Code**] DIVISION II OF THE LOCAL GOVERNMENT ARTICLE** that is in the regional district may be recorded in the land records of Montgomery County or Prince George's County if:

(1) the subdivision plat has been submitted to and approved by the municipal corporation; and

(2) the appropriate official of the municipal corporation endorses an approval in writing on the plat.

Article – Natural Resources

3–107.

(b) Notwithstanding any limitations or other provisions to the contrary of **[**Article 23A, Article 25A, or Article 25B of the Code**] DIVISION II, TITLE 9, SUBTITLE 2 OR SUBTITLE 3, TITLE 10, OR TITLE 11 OF THE LOCAL GOVERNMENT ARTICLE**, or of any charter or local law regulating the procurement or awarding of public contracts, a municipality may enter into contracts with the Service for the purpose of the Service providing any of the projects or services requested by the municipality. As soon as possible after receipt of a duly authorized request from a municipality or person, the Service shall draft a proposed contract with the municipality or person in accordance with the provisions of this subtitle specifying the type of project or services to be provided, whether or not a service district will be established, the boundaries and effective date of any service district, and the terms, conditions, and costs under which the project or services will be provided. Upon execution of the contract, the Service as soon as possible shall establish any service district provided for in the contract and provide, maintain, and operate the necessary project. For the purposes of this subsection, the express powers contained and enumerated in **[**Articles 23A, 25A, and 25B of the Code**] DIVISION II AND TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE** and in the Charter of the City of Baltimore are deemed to incorporate and include the power and authority contained in this subsection.

3–122.

(b) (1) Notwithstanding any limitations or other provisions to the contrary of **[**Article 23A, Article 25A, or Article 25B of the Code**] DIVISION II, TITLE 9, SUBTITLE 2 OR SUBTITLE 3, TITLE 10, OR TITLE 11 OF THE LOCAL GOVERNMENT ARTICLE**, or of any charter or local law regulating the creation of public debts, a municipality may enter into contracts with the Service for the purpose of defraying the Service's costs of acquiring or providing a solid waste disposal project, wastewater purification project, water supply project, or energy project, which costs may include debt service requirements of the Service relating to that project. These contracts shall not be deemed to constitute or create a debt of the municipality or a pledge of its faith or credit within the meaning of any of these limitations or other provisions. Such a solid waste disposal project, wastewater purification project, water supply project, or energy project may not be deemed to be a capital project of the municipality within the meaning of any of these limitations or other provisions, and a resolution, ordinance, or other official action authorizing such contracts is not subject to referendum or other procedure not applicable to all ordinances or resolutions enacted by the municipality. For the purposes of this subsection, the express powers contained and enumerated in **[**Articles 23A, 25A, and 25B of the Code**] DIVISION II AND TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE** and in the Charter of the City of Baltimore are deemed to incorporate and include the power and authority contained in this subsection.

(4) A county or municipal corporation may exercise the powers granted under this section notwithstanding any limitations or other provisions to the contrary of **[**Article 23A, Article 25A, or Article 25B of the Code**] DIVISION II, TITLE 9, SUBTITLE 2 OR SUBTITLE 3, TITLE 10, OR TITLE 11 OF THE LOCAL GOVERNMENT ARTICLE** or of any charter or local law.

3–908.

(d) The bonds shall be exempt from the provisions of **[**§§ 10 and 11 of Article 31 of the Code**] §§ 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE** and §§ 8–206 and 8–208 of the State Finance and Procurement Article, and the Authority may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine.

3–915.

The bonds shall not be deemed to constitute a debt, liability or a pledge of the faith and credit of the State of Maryland or of any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds herein provided therefor. All such bonds shall contain on the face thereof a statement to the effect that neither the State of Maryland nor any political subdivision thereof other than the Authority shall be obligated to pay the same or the interest thereon except from revenues pledged thereto and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions

of this subtitle is not directly or indirectly or contingently an obligation, moral or other, of the State of Maryland or any political subdivision thereof to levy or pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing contained in this section shall prevent the Authority from pledging its full faith and credit to the payment of bonds authorized pursuant to this subtitle. However, this section does not limit the ability of the State or a subdivision to set, impose, or collect an assessment, rate, fee, or charge to pay to the Authority the cost of a project, including the principal of and interest on a bond or note, under an agreement between the Authority and the State or subdivision.

Notwithstanding any limitations or other provisions to the contrary of **[**Article 23A, 25A, or 25B of the Code**]** **DIVISION II, TITLE 9, SUBTITLE 2 OR SUBTITLE 3, TITLE 10, OR TITLE 11 OF THE LOCAL GOVERNMENT ARTICLE**, or of any charter or local law regulating the creation of public debts, a subdivision may enter into contracts with the Authority for the purpose of defraying the Authority's costs of acquiring, constructing, operating, or providing a project, which costs may include debt service requirements of the Authority relating to that project. These contracts are not intended and shall not be deemed to constitute or create a debt of the subdivision or a pledge of its faith or credit within the meaning of any of these limitations or any constitutional or other provisions. Such a project shall not be deemed to be a capital project of the subdivision within the meaning of any of these limitations or other provisions, and a resolution, ordinance, or other official action authorizing such contracts is not subject to referendum or other procedure not applicable to all ordinances or resolutions enacted by the subdivision. For the purposes of this section, the express powers contained and enumerated in **[**Articles 23A, 25A, and 25B of the Code**]** **DIVISION II AND TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE** and in the charter of the City of Baltimore are deemed to incorporate and include the power and authority contained in this section.

5–307.

(h) The amount of revenues collected under subsection (f)(1) of this section shall be included in the report required under **[**Article 24, § 2–101 of the Code**]** **§ 16–103 OF THE LOCAL GOVERNMENT ARTICLE**.

8–1103.

(i) The financing plan submitted by the municipality and county in which the project is located shall:

(2) Set forth the revenue sources to be relied upon to provide the local costs, which without limitation may include:

(i) As to the county:

1. The recordation tax authorized by Title 12 of the Tax – Property Article;

2. The admissions and amusement tax authorized by § 4–102(b) of the Tax – General Article;

3. The county income tax authorized by § 10–103 of the Tax – General Article;

4. State–collected, locally–shared taxes or designated portions of the taxes;

5. Taxes authorized by the Tax – Property Article; and

6. Revenues raised by establishment of an erosion control district established pursuant to **[**Article 25, §§ 161 and 163A of the Code**] §§ 21–202, 21–204, AND 21–210 OF THE LOCAL GOVERNMENT ARTICLE**; and

(ii) As to the municipality:

1. Taxes authorized by the Tax – Property Article;

2. Fees and charges authorized by **[**Article 23A, § 2(b)(33) of the Code**] § 5–205(D) OF THE LOCAL GOVERNMENT ARTICLE** or the municipality's charter; and

3. The admissions and amusement tax authorized by § 4–102(b) of the Tax – General Article; and

Article – Public Safety

12–1004.

(c) Except as otherwise allowed under this subtitle and Subtitles 2, 3, 4, and 5 of this title, and notwithstanding **[**Articles 23A, 25, 25A, 25B, 28, and 29 of the Code**] THE LOCAL GOVERNMENT ARTICLE, DIVISION II OF THE LAND USE ARTICLE, AND DIVISION II OF THE PUBLIC UTILITIES ARTICLE** and any building codes, mechanical codes, plumbing codes, fire prevention codes, and electrical codes adopted under those articles of the Code, the MBRC applies to all rehabilitation projects for which a construction permit application is received by a local jurisdiction, the Maryland–National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission after adoption of the MBRC.

Article – Public Utilities

22–204.

(b) **[**Article 31, §§ 9, 10, and 11 of the Code**] SECTIONS 19–205 AND 19–206 OF THE LOCAL GOVERNMENT ARTICLE** do not apply to the issuance and sale of bonds authorized by this subtitle.

29–101.

(h) In a proceeding for a Commission infraction before the District Court, the violation shall be prosecuted in the same manner and to the same extent provided for municipal infractions under **[**Article 23A, § 3(b)(7), (10), and (12) through (15) of the Code**] §§ 6–108 THROUGH 6–110, 6–112, AND 6–114 OF THE LOCAL GOVERNMENT ARTICLE**.

29–102.

(g) In a proceeding for a Commission infraction before the District Court, the violation shall be prosecuted in the same manner and to the same extent provided for municipal infractions under **[**Article 23A, § 3(b)(7), (10), and (12) through (15) of the Code**] §§ 6–108 THROUGH 6–110, 6–112, AND 6–114 OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Real Property

10–704.

(a) In Frederick County, the vendor of a property that is subject to a tax or fee of a special taxing district as authorized in **[**Article 23A, § 44A(b) of the Code**] § 21–409 OF THE LOCAL GOVERNMENT ARTICLE** or by a community development authority as authorized in § 2–7–125(b) of the Public Local Laws of Frederick County may not enforce a contract for the sale of the property unless within 20 calendar days after entering into the contract, the purchaser of the property is provided the following information in writing:

(1) In conspicuous, bold, and underscored type, substantially the same as the following clause:

"This sale is subject to a tax or fee of a (special taxing district or community development authority). State law requires that the seller disclose to you at or before the time the contract is entered into, or within 20 calendar days after entering into the contract, certain information concerning the property you are purchasing. The content of the information to be disclosed is set forth in § 10–704 of the Real Property Article of the Maryland Annotated Code and includes the amount of the current annual tax or fee of the (special taxing district or community development authority) for the property, the number of years remaining for the tax or fee of the (special taxing district or community development authority), and a statement of whether any tax or

fee of the (special taxing district or community development authority) against the property is delinquent.";

(2) The amount of the current annual tax or fee of the special taxing district or community development authority for the property;

(3) The number of years remaining for the tax or fee of the special taxing district or community development authority on the property; and

(4) Whether any tax or fee of the special taxing district or community development authority against the property is delinquent.

10–706.

(b) The vendor of property that is subject to a tax of a special taxing district as authorized in **[**Article 24, § 9–1301(c) of the Code**] §§ 21–503, 21–504, AND 21–519 THROUGH 21–523 OF THE LOCAL GOVERNMENT ARTICLE** may not enforce a contract for the sale of the property unless:

(1) The purchaser of the property is provided with the following information in writing:

(i) A description of the area included within the special taxing district;

(ii) The maximum amount of bonds and other obligations to be issued with respect to the special taxing district;

(iii) A description of the purposes for which the special taxing district was created, and for which the bonds or other obligations have been issued, including a description of any improvements;

(iv) The amount of special taxes levied on the property for the most recent year or, if taxes were not levied on the property for the most recent year, a good–faith estimate of the annual tax that will be levied on the property;

(v) The maximum amount of special taxes that may be levied on the property in a year;

(vi) The projected time period over which any bonds or obligations issued in connection with the special taxing district are to be repaid; and

(vii) A description of the purchaser's right to fully prepay the special taxing district obligations; and

(2) The contract for the sale of the property contains a notice, written in conspicuous, bold, and underscored type, that is substantially the same as the following:

"NOTICE REQUIRED BY MARYLAND LAW

The property that is the subject of this contract is located within a special taxing district, which has been created for the purpose of financing or refinancing the costs related to certain infrastructure improvements within the taxing district. These costs will be repaid from the proceeds of special taxes collected from the owners of properties located within the special taxing district.

State law requires that the seller disclose to you, at or before the time you enter into this contract, the following information: (1) a description of the area included within the special taxing district, (2) the maximum amount of bonds and other obligations to be issued with respect to the special taxing district, (3) a description of the purposes for which the special taxing district was created, and for which the bonds or other obligations have been issued, including a description of any infrastructure improvements, (4) the amount of special taxes levied on the property for the most recent year or, if taxes were not levied on the property for the most recent year, a good–faith estimate of the annual tax that will be levied on the property, (5) the maximum amount of special taxes that may be levied on the property in a year, (6) the projected time period over which any bonds or obligations issued in connection with the special taxing district are to be repaid, and (7) your right as the prospective owner of the property to fully prepay the special taxing district obligations with respect to the property.

You have 7 calendar days from the date you receive the above information relating to the special taxing district to cancel this contract by sending a written notice of cancellation to the seller. You are not required to state a reason for cancelling the contract. Upon cancellation of the contract, you are entitled to a refund of any deposit you may have made under this contract.

A seller may not require that you waive your right to receive the information relating to the special taxing district or your right to cancel the contract within 7 calendar days of receipt of the information. A seller may not require that you close the sale under this contract within 7 calendar days from the date you receive the information relating to the special taxing district.

State law provides that any seller who, in disclosing the information relating to the special taxing district, makes any false statement of a material fact or omits a material fact that, in light of the circumstances under which the statements were made, is necessary to make the statements not misleading is liable to the purchaser for damages proximately caused by the seller's false or omitted statement. Any action for damages caused by the seller's false statement or omission of a material fact must be brought within 1 year from the date of closing under this contract.

You should carefully review the information relating to the special taxing district provided by the seller to familiarize yourself with your rights and obligations as a prospective owner of property located within the special taxing district."

10–707.

(b) The vendor of property that is subject to a tax of a special taxing district as authorized in **[**Article 24, § 9–1301(c) of the Code**] §§ 21–503, 21–504, AND 21–519 THROUGH 21–523 OF THE LOCAL GOVERNMENT ARTICLE** may not enforce a contract for the sale of the property unless:

(1) The purchaser of the property is provided with the following information in writing on or before entering into the contract for the sale of the property:

(i) A description of the area included within the special taxing district;

(ii) The maximum amount of bonds and other obligations to be issued with respect to the special taxing district;

(iii) A description of the purposes for which the special taxing district was created, and for which the bonds or other obligations have been issued, including a description of any improvements;

(iv) The amount of special taxes levied on the property for the most recent year or, if taxes were not levied on the property for the most recent year, a good–faith estimate of the annual tax that will be levied on the property;

(v) The maximum amount of special taxes that may be levied on the property in a year;

(vi) The projected time period over which any bonds or obligations issued in connection with the special taxing district are to be repaid; and

(vii) A description of the purchaser's right to fully prepay the special taxing district obligations; and

(2) The contract for the sale of the property contains a notice, written in conspicuous, bold, and underscored type, that is substantially the same as the following:

"NOTICE REQUIRED BY MARYLAND LAW

The property that is the subject of this contract is located within a special taxing district, which has been created for the purpose of financing or refinancing the costs related to certain infrastructure improvements within the taxing district. These

costs will be repaid from the proceeds of special taxes collected from the owners of properties located within the special taxing district.

State law requires that the seller disclose to you, at or before the time you enter into this contract, the following information: (1) a description of the area included within the special taxing district, (2) the maximum amount of bonds and other obligations to be issued with respect to the special taxing district, (3) a description of the purposes for which the special taxing district was created, and for which the bonds or other obligations have been issued, including a description of any infrastructure improvements, (4) the amount of special taxes levied on the property for the most recent year or, if taxes were not levied on the property for the most recent year, a good–faith estimate of the annual tax that will be levied on the property, (5) the maximum amount of special taxes that may be levied on the property in a year, (6) the projected time period over which any bonds or obligations issued in connection with the special taxing district are to be repaid, and (7) your right as the prospective owner of the property to fully prepay the special taxing district obligations with respect to the property.

You have 20 calendar days from the date you receive the above information relating to the special taxing district to cancel this contract by sending a written notice of cancellation to the seller. You are not required to state a reason for cancelling the contract. Upon cancellation of the contract, you are entitled to a refund of any deposit you may have made under this contract.

A seller may not require that you waive your right to receive the information relating to the special taxing district or your right to cancel the contract within 20 calendar days of receipt of the information. A seller may not require that you close the sale under this contract within 20 calendar days from the date you receive the information relating to the special taxing district.

State law provides that any seller who, in disclosing the information relating to the special taxing district, makes any false statement of a material fact or omits a material fact that, in light of the circumstances under which the statements were made, is necessary to make the statements not misleading is liable to the purchaser for damages proximately caused by the seller's false or omitted statement. Any action for damages caused by the seller's false statement or omission of a material fact must be brought within 1 year from the date of closing under this contract.

You should carefully review the information relating to the special taxing district provided by the seller to familiarize yourself with your rights and obligations as a prospective owner of property located within the special taxing district."

11B–104.

(c) Subject to the provisions of this title, a code home rule county located in the Southern Maryland class, as identified in **[**Article 25B, § 2 of the Code**] § 9–302 OF THE LOCAL GOVERNMENT ARTICLE**, may establish a homeowners association

commission with the authority to hear and resolve disputes between a homeowners association and a homeowner regarding the enforcement of the recorded covenants or restrictions of the homeowners association by providing alternative dispute resolution services, including binding arbitration.

Article – State Finance and Procurement

5–606.

(b) The Plan does not:

(1) supersede any State statute or regulation;

(2) supersede any local ordinance or regulation;

(3) affect the delegation of planning and zoning powers granted by the State to local jurisdictions under **[**Articles 23A, 25A, and 25B of the Code**]** **DIVISION II, TITLE 9, SUBTITLES 2 OR 3, TITLE 10, OR TITLE 11 OF THE LOCAL GOVERNMENT ARTICLE** and Division I of the Land Use Article; or

(4) overturn or prevent a decision of a local jurisdiction to fund a project.

6–222.

(a) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(8) any investment portfolio created under the Maryland Local Government Investment Pool defined under **[**Article 95, § 22G**]** **§§ 17– 301 THROUGH 17–309 OF THE LOCAL GOVERNMENT ARTICLE** of the Code that is administered by the Office of the State Treasurer.

8–117.

(c) An enabling act may take substantially the following form:

"A BILL ENTITLED

AN ACT concerning

Creation of a State Debt – (Name of Project)

FOR the purpose of authorizing the creation of a State debt not to exceed $....., (for an enabling act that requires an equal matching fund)/ in the amount of $....., (for an enabling act that requires no matching fund or a lesser matching fund) the

proceeds to be used as a grant to ..... (name of grantee) for certain development or improvement purposes; providing for disbursement of the loan proceeds, subject to the requirement that the grantee provide and expend a matching fund (if the enabling act requires a matching fund); and providing generally for the issuance and sale of bonds evidencing the loan.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the ... (name of project) Loan of ... (year) equal to the lesser of (i) $... or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. (For an enabling act that requires an equal matching fund)/ in the total principal amount of $..... (for an enabling act that requires no matching fund or a lesser matching fund). This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 **AND 8–131.2** of the State Finance and Procurement Article **[**and Article 31, § 22 of the Code**]** .

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to ..... (name of grantee) (referred to hereafter in this Act as "the grantee") (for an enabling act that requires a matching fund) for (here state the purpose or purposes to which the proceeds of the bonds are to be applied).

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issue of the bonds.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, ... (year)".

8–202.

This subtitle does not apply to an entity that is governed by **[**Article 31 of the Code**] TITLE 19, SUBTITLES 1, 2, AND 9 AND SUBTITLE 6, PART I OF THE LOCAL GOVERNMENT ARTICLE**.

Article – State Government

2–1220.

(d) (1) The Office of Legislative Audits shall review any audit report prepared under the authority of:

(i) **[**Article 19, § 40 of the Code**] §§ 16–305 THROUGH 16–308 OF THE LOCAL GOVERNMENT ARTICLE**, with respect to a county, municipal corporation, or taxing district; or

2–1237.

(a) In addition to any duties set forth elsewhere, the Office shall:

(14) review the financial reports received from each political subdivision in accordance with **[**Article 24, § 2–101 of the Code**] § 16–103 OF THE LOCAL GOVERNMENT ARTICLE** as to completeness and accuracy. If the report needs revision, the political subdivision shall be advised and shall submit the requested information within 15 days. The financial reports of political subdivisions shall be available for public inspection and certified copies shall be provided by the Office for a reasonable fee;

15–802.

The express powers contained in **[**Articles 23A, 25A, and 25B of the Code**] TITLE 5, SUBTITLE 2 AND TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE** and in the Charter of the City of Baltimore are intended and shall be deemed to incorporate and include the power and authority contained in this Part I.

15–853.

(d) "Application" means:

(4) a request made under **[**Article 23A, § 9(c) of the Code**] § 4–416 OF THE LOCAL GOVERNMENT ARTICLE** for the Board to approve the placement of annexed land in a zoning classification that allows a land use that is substantially different from the use for the land authorized in the zoning classification of the county applicable at the time of annexation; or

Article – Tax – General

4–103.

(a) The admissions and amusement tax may not be imposed by:

(4) Washington County on gross receipts from an amusement device that is subject to the license and permit requirements of **[**Article 24, § 11–202 of the Code**] TITLE 17, SUBTITLE 4, PART V OF THE BUSINESS REGULATION ARTICLE**;

11–102.

(c) (1) A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose any retail sales or use tax except:

(iii) a tax imposed by a code county on the sale or use of food and beverages authorized under **[**Article 25B, § 13H of the Code**] § 20–602 OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Tax – Property

7–243.

(a) In this section, "heavy equipment property" has the meaning stated in **[**Article 24, § 9–609 of the Code**] § 20–609 OF THE LOCAL GOVERNMENT ARTICLE**.

(b) Heavy equipment property is not subject to the property tax if the property is subject to the gross receipts tax imposed under **[**Article 24, § 9–609 of the Code**] § 20–609 OF THE LOCAL GOVERNMENT ARTICLE**.

9–102.

(a) (3) "Assumed real property tax" means:

(i) 15% of the occupancy rent paid by a renter during the calendar year; or

(ii) 15% of the occupancy rent paid by a renter during the calendar year plus any tax paid under **[**Article 24, § 9–401 of the Code**] § 20–501 OF THE LOCAL GOVERNMENT ARTICLE**.

Article – Transportation

5–419.

(c) This section supersedes any other general or local law**[**, including Article 31 of the Code,**]** to the extent of any conflict. No part of this section may be deemed to

be impliedly repealed or superseded by any subsequent legislation if such construction reasonably can be avoided.

8–610.

(h) "Municipality" means the governing body of a **[**municipal corporation as defined in Article 23A, § 9 of the Code**]** **MUNICIPALITY AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**.

8–630.

(a) (2) "Municipal corporation" **[**has the meaning stated in Article 23A, § 9 of the Code**]** **MEANS A MUNICIPALITY AS DEFINED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE**.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The revision of former Article 31, § 22 of the Code as enacted by Chapter 119 (H.B. 472/3lr0446) of the Acts of the General Assembly of 2013 and its reenactment by that Act as § 8–131.2 of the State Finance and Procurement Article shall have no effect with respect to the validity of any bonds authorized or issued under an enactment of the General Assembly of 2013 or any prior year, and any such bonds shall continue to be accorded the same tax–exempt status as under the former Article 31, § 22 prior to the enactment of Chapter 119 (H.B. 472/3lr0446) of the Acts of 2013; and

(2) The changes made to former Article 31 by Chapter 119 (H.B. 472/3lr0446) of the Acts of the General Assembly of 2013 shall have no effect with respect to the status and validity of any bonds authorized or issued under an enactment of the General Assembly of 2013 or any prior year.

(b) Any enactment of the General Assembly of 2013 or any prior year containing a reference to any provision of former Article 31 that was in effect on September 30, 2013, shall be deemed to include a reference to the corresponding provision of law as enacted by Chapter 119 (H.B. 472/3lr0446) of the Acts of the General Assembly of 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 137

(House Bill 752)

AN ACT concerning

Video Lottery Gaming – Term of License

FOR the purpose of altering the term of a certain video lottery license; making this Act an emergency measure; and generally relating to video lottery licenses and the Maryland Lottery and Gaming Control Commission.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–07(f)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

9–1A–07.

(f) (1) Except for a video lottery operation license as provided in § 9–1A–13 of this subtitle, if satisfied that an applicant is qualified to receive a license, and on tender of all required application, license, and other fees and taxes, and any bond required under § 9–1A–04(e) of this subtitle, the Commission shall issue a license for a term of **[**3**]** **5** years.

(2) The Commission may stagger the terms of licenses.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 9, 2013.

Chapter 138

(House Bill 757)

AN ACT concerning

Procurement – Minority Business Enterprises – Reporting of Architectural Services and Engineering Services Contracts

FOR the purpose of requiring certain units of State government to report to certain entities information concerning procurements by the unit for architectural services and engineering services involving minority business enterprises for the preceding fiscal year; altering certain definitions; and generally relating to the reporting of procurements for architectural services and engineering services and minority business enterprises.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 11–101(b) and (i)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–305
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

11–101.

(b) (1) "Architectural services" means professional or creative work that:

(i) is performed in connection with the design and supervision of construction or landscaping; and

(ii) requires architectural education, training, and experience.

(2) "Architectural services" includes consultation, research, investigation, evaluation, planning, architectural design and preparation of related documents, and coordination of services that structural, civil, mechanical, and electrical engineers and other consultants provide.

(3) "Architectural services" does not include construction inspection services **[**or**]**, services provided in connection with an energy performance contract **FOR STRUCTURAL, MECHANICAL, PLUMBING, OR ELECTRICAL ENGINEERING**.

(i) (1) "Engineering services" means professional or creative work that:

(i) is performed in connection with any utility, structure, building, machine, equipment, or process**, INCLUDING STRUCTURAL, MECHANICAL, PLUMBING, ELECTRICAL, GEOTECHNICAL, AND ENVIRONMENTAL ENGINEERING**; and

(ii) requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences.

(2) "Engineering services" includes consultation, investigation, evaluation, planning, design, and inspection of construction to interpret and ensure compliance with specifications and design within the scope of inspection services.

(3) "Engineering services" does not include services provided in connection with an energy performance contract.

14–305.

(a) (1) Within 90 days after the end of the fiscal year, each unit shall report to the Governor's Office of Minority Affairs, the certification agency, and, subject to § 2–1246 of the State Government Article, the Joint Committee on Fair Practices and Personnel Oversight.

(2) A report under this subsection shall for the preceding fiscal year:

(i) state the total number and value of procurement contracts between the unit and certified minority business enterprises, by specific category of minority business enterprise, including whether the minority business enterprise participated as a prime contractor or as a subcontractor;

(ii) indicate the percentage that those procurement contracts represent, by specific category of minority business enterprise, of the total number and value of procurement contracts;

(iii) state the total number and the names of certified minority business enterprises that participated as prime contractors or as subcontractors on procurement contracts awarded by a unit;

(iv) for each minority business included in the report under item (iii) of this paragraph, list all procurement contracts awarded by a unit to the minority business enterprise, including a description of the contract; and

(v) contain other such information as required by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(3) AS TO PROCUREMENT CONTRACTS FOR ARCHITECTURAL SERVICES AND ENGINEERING SERVICES REPORTED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE REPORT SHALL IDENTIFY BY SEPARATE CATEGORY OF MINORITY BUSINESS ENTERPRISE PROCUREMENTS FOR:

(I) ARCHITECTURAL SERVICES; AND

(II) ENGINEERING SERVICES.

[(3)**] (4)** A report under this subsection shall be in a form prescribed by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(b) (1) On or before December 31 of each year, the Governor's Office of Minority Affairs shall submit to the Board of Public Works and, subject to § 2–1246 of the State Government Article, to the Legislative Policy Committee a report summarizing the information the Office receives under subsection (a) of this section.

(2) This report may be prepared in conjunction with the annual report required under § 9–306 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 139

(House Bill 766)

AN ACT concerning

Environment – ~~Landscape Architects and Land Surveyors – Plan Certification~~ Severn River Watershed – Silt and Erosion Control – Certification

FOR the purpose of authorizing professional land surveyors and licensed landscape architects to certify silt and erosion control plans in the Severn River Watershed; ~~authorizing professional land surveyors and licensed landscape~~

~~architects to certify certain site plans for certain purposes;~~ and generally relating to certification of silt and erosion control plans ~~and site plans~~ in the Severn River Watershed.

BY repealing and reenacting, with amendments,
Article – Environment
Section 4–308 ~~and 9–206(b)(2)~~
Annotated Code of Maryland
(2007 Replacement Volume and ~~2010~~ 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

4–308.

(a) Anne Arundel County or the City of Annapolis may issue a grading or building permit within the Severn River Watershed only after the developer submits a plan of development approved by the soil conservation district. If the development plan contains any septic or private sewer facility, the Department of the Environment shall approve it only if the facility will not contribute in any way to pollution of the Severn River. The developer shall submit a certificate from a professional engineer**, A PROFESSIONAL LAND SURVEYOR, OR A LICENSED LANDSCAPE ARCHITECT** stating that the developer's plan to control silt and erosion is adequate to contain the silt and erosion on the property covered by the plan. Also, the developer shall submit another certificate stating that any construction or development will be done according to the plan. A subdivision developer shall obtain approval of the plan at the time of approving and recording of the subdivision plat. In addition to any other penalty provided in this subtitle, if a developer violates his certificate, then every permit issued pursuant to the certificate is void.

(b) A State, county, or municipal road, building, or structure may not be constructed, relocated, or enlarged within the Severn River Watershed until plans have been submitted to and approved by the soil conservation district.

~~9–206.~~

~~(b) (2) Subsections (f) through (i) do not apply to an application for approval of a residential subdivision under § 9–512(c) of this title if:~~

~~(i) 1. By October 1, 2012, a submission for preliminary plan approval is made to a local jurisdiction that includes, at a minimum, the preliminary engineering, density, road network, lot layout, and existing features of the proposed site development;~~

~~2. By July 1, 2012, in a local jurisdiction that requires a soil percolation test before a submission for preliminary approval:~~

~~A. An application for a soil percolation test approval for all lots that will be included in the submission for preliminary approval is made to the local health department; and~~

~~B. Within 18 months after approval of the soil percolation tests for the lots that will be included in the submission for preliminary approval, a submission for preliminary approval is made to a local jurisdiction that includes, at a minimum, the preliminary engineering, density, road network, lot layout, and existing features of the proposed site development; or~~

~~3. By July 1, 2012, in a local jurisdiction that requires a soil percolation test before a submission for preliminary approval and the local jurisdiction does not accept applications for soil percolation tests year round:~~

~~A. Documentation that a Maryland professional engineer~~ **[**~~or~~**]**~~**, A PROFESSIONAL LAND** surveyor~~**, OR A LICENSED LANDSCAPE ARCHITECT** has prepared and certified under seal a site plan in anticipation of an application for soil percolation tests;~~

~~B. An application for a soil percolation test approval for all lots that will be included in the submission for preliminary approval is made to the local health department at the next available soil percolation test season; and~~

~~C. Within 18 months after approval of the soil percolation tests for the lots that will be included in the submission for preliminary approval, a submission for preliminary approval is made to a local jurisdiction that includes, at a minimum, the preliminary engineering, density, road network, lot layout, and existing features of the proposed site development; and~~

~~(ii) By October 1, 2016, the preliminary plan is approved.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 140

(House Bill 797)

AN ACT concerning

Transportation Projects – ~~Bridges~~ Transportation Facilities – Water Access

FOR the purpose of requiring the Department of Transportation and local governments, in developing a construction or improvement project involving a bridge ~~that~~ or other transportation facility that is adjacent to or crosses a waterway, to ~~incorporate, to the extent feasible,~~ consider any reasonable and appropriate measures to provide or improve certain water access for certain activities; requiring the Department and local governments, in consultation with certain entities, to establish certain ~~inventories of certain bridges and approaches to bridges; requiring the Department and local governments to review certain bridge construction and improvement projects to determine which of the projects can safely and reasonably incorporate the provision of or improvements to water access for certain activities~~ standards and guidelines for identifying appropriate transportation facilities for certain water access and best practices and cost effective strategies to accommodate certain water access; and generally relating to the incorporation of water access considerations into construction or improvement projects involving a ~~bridge~~ transportation facility.

BY adding to
~~Article 24 – Political Subdivisions – Miscellaneous Provisions~~
~~Section 25–101 to be under the new title "Title 25. Transportation Planning"~~
~~Annotated Code of Maryland~~
~~(2011 Replacement Volume and 2012 Supplement)~~

Article – Local Government
Section 1–1309
Annotated Code of Maryland
(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of 2013)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 2–103.1(c)(1)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Transportation
Section 2–103.1(c)(7)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~**Article 24 – Political Subdivisions – Miscellaneous Provisions**~~

~~TITLE 25. TRANSPORTATION PLANNING.~~

~~25–101.~~

Article – Local Government

1–1309.

(A) A COUNTY OR MUNICIPALITY, IN DEVELOPING A CONSTRUCTION OR IMPROVEMENT PROJECT INVOLVING A BRIDGE ~~THAT~~ OR OTHER TRANSPORTATION FACILITY THAT IS ADJACENT TO OR CROSSES A WATERWAY, SHALL ~~INCORPORATE, TO THE EXTENT FEASIBLE,~~ CONSIDER ANY REASONABLE AND APPROPRIATE MEASURES TO PROVIDE OR IMPROVE IN THE VICINITY OF THE BRIDGE OR OTHER TRANSPORTATION FACILITY WATER ACCESS FOR FISHING, CANOEING, KAYAKING, OR ANY OTHER ~~APPROPRIATE~~ NONMOTORIZED WATER DEPENDENT RECREATIONAL ACTIVITY.

(B) A COUNTY OR MUNICIPALITY, IN CONSULTATION WITH THE DEPARTMENT OF NATURAL RESOURCES AND INTERESTED STAKEHOLDERS, SHALL ESTABLISH ~~AN INVENTORY OF BRIDGES AND APPROACH HIGHWAYS TO BRIDGES UNDER THE JURISDICTION OF THE COUNTY OR MUNICIPALITY THAT CROSS NAVIGABLE WATERWAYS OR WATERWAYS AMENABLE TO FISHING ACTIVITY AT WHICH WATERWAY ACCESS MAY BE PROVIDED OR IMPROVED REASONABLY AND SAFELY~~:

(1) STANDARDS AND GUIDELINES FOR IDENTIFYING APPROPRIATE BRIDGES AND OTHER TRANSPORTATION FACILITIES TO BE CONSIDERED FOR THE PROVISION OR IMPROVEMENT OF WATER ACCESS UNDER THIS SECTION; AND

(2) BEST PRACTICES AND COST EFFECTIVE STRATEGIES FOR ACCOMMODATING WATER ACCESS UNDER THIS SECTION.

Article – Transportation

2–103.1.

(c) (1) The Consolidated Transportation Program shall:

(i) Be revised annually; and

(ii) Include:

1. A list of:

A. The current State transportation goals;

B. Program priorities; and

C. For projects in the construction phase, the criteria used to select major capital projects for inclusion in the capital program, as determined by the Department;

2. A statement of the Department's projected annual operating costs, set forth separately for the Office of the Secretary and for each modal administration;

3. Expanded descriptions of major capital projects;

4. A list of major capital projects for the current year, the budget request year, and the 4 successive planning years;

5. A list of anticipated minor capital projects, including a specific list of anticipated special projects for the current year and the budget request year and an estimate of the Program level for each of the 4 successive planning years;

6. A list of major bridge work projects;

7. A summary of the capital and operating programs, as defined by the Secretary, for the Maryland Transportation Authority;

8. For each listed major capital project, an indication whether the revenue source anticipated to support that project consists of federal, special, general, or other funds;

9. The Department's estimates of the levels and sources of revenues to be used to fund the projects in the Program;

10. A glossary of terms; and

11. A cross–reference table for the information contained in the various parts of the State Report on Transportation.

(7) (I) THE DEPARTMENT, IN DEVELOPING A CONSTRUCTION OR IMPROVEMENT PROJECT INVOLVING A BRIDGE ~~THAT~~ OR OTHER TRANSPORTATION FACILITY THAT IS ADJACENT TO OR CROSSES A WATERWAY FOR INCLUSION IN THE CONSOLIDATED TRANSPORTATION PROGRAM, SHALL ~~INCORPORATE, TO THE EXTENT FEASIBLE,~~ CONSIDER ANY REASONABLE AND APPROPRIATE MEASURES TO PROVIDE OR IMPROVE IN THE VICINITY OF THE BRIDGE OR OTHER TRANSPORTATION FACILITY WATER ACCESS FOR FISHING,

CANOEING, KAYAKING, OR ANY OTHER ~~APPROPRIATE~~ NONMOTORIZED WATER DEPENDENT RECREATIONAL ACTIVITY.

(II) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF NATURAL RESOURCES AND INTERESTED STAKEHOLDERS, SHALL ESTABLISH ~~AN INVENTORY OF BRIDGES AND APPROACH HIGHWAYS TO BRIDGES UNDER THE JURISDICTION OF THE DEPARTMENT THAT CROSS NAVIGABLE WATERWAYS OR WATERWAYS AMENABLE TO FISHING ACTIVITY AT WHICH WATERWAY ACCESS MAY BE PROVIDED OR IMPROVED REASONABLY AND SAFELY~~:

1. STANDARDS AND GUIDELINES FOR IDENTIFYING APPROPRIATE BRIDGES AND OTHER TRANSPORTATION FACILITIES TO BE CONSIDERED FOR THE PROVISION OR IMPROVEMENT OF WATER ACCESS UNDER THIS PARAGRAPH; AND

2. BEST PRACTICES AND COST EFFECTIVE STRATEGIES FOR ACCOMMODATING WATER ACCESS UNDER THIS PARAGRAPH.

SECTION 2. ~~AND BE IT FURTHER ENACTED, That the Maryland Department of Transportation and each county and municipality shall review all bridge construction and improvement projects that are in the planning or design phase on the effective date of this Act to determine which of these projects can safely and reasonably incorporate the provision of or improvements to waterway access for fishing, canoeing, kayaking, or any other appropriate water dependent recreational activity.~~

~~SECTION 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 141

(House Bill 830)

AN ACT concerning

Alternatives to the General Educational Development Tests – Study

FOR the purpose of requiring the Division of Workforce Development and Adult Learning in the Department of Labor, Licensing, and Regulation to conduct a certain study regarding the evaluation of alternative methods for obtaining the equivalent of a high school diploma; requiring the Division to submit the results

of the study to the General Assembly on or before a certain date; and generally relating to a study regarding the evaluation of alternative methods for obtaining the equivalent of a high school diploma.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Division of Workforce Development and Adult Learning in the Department of Labor, Licensing, and Regulation shall conduct a study to identify alternative methods for an individual to earn the equivalent of a high school diploma without passing the General Educational Development tests.

(b) When conducting the study required under subsection (a) of this section, the Division shall consider whether:

(1) an alternative method presents greater opportunities for individuals to obtain the equivalent of a high school diploma;

(2) an alternative method adequately measures the major subject area knowledge and skills considered to be the outcomes of a high school education;

(3) the costs of an alternative method as compared with the costs of the General Educational Development tests justify the adoption of an alternative method;

(4) other jurisdictions have studied or adopted an alternative method; and

(5) an alternative method provides foreign language and disability accommodations.

(c) On or before December 1, 2013, the Division of Workforce Development and Adult Learning shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the results of the study conducted under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. It shall remain effective for a period of 1 year and, at the end of May 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 9, 2013.

Chapter 142

(House Bill 901)

AN ACT concerning

Howard County – Alcoholic Beverages Establishments – Distance from Schools

FOR the purpose of altering a certain minimum distance restriction in Howard County so as to prohibit the issuance of a Class B alcoholic beverages license for a restaurant located a certain distance from a public school building; making a stylistic change; and generally relating to alcoholic beverages in Howard County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–214(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–214(b)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

9–214.

(a) This section applies only in Howard County.

(b) (1) **(I)** **[**A**]** **SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, A** license to sell alcoholic beverages may not be first issued after June 30, 1971, for any building located within 500 feet of the nearest point of **[**the**]** **A** public school building.

(II) A CLASS B LICENSE TO SELL ALCOHOLIC BEVERAGES MAY NOT BE ISSUED FOR A RESTAURANT LOCATED WITHIN 400 FEET FROM THE NEAREST POINT OF A PUBLIC SCHOOL BUILDING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 143

(House Bill 1020)

AN ACT concerning

Baltimore City – Video Lottery Terminal Proceeds – Local Impact Grants

FOR the purpose of altering the manner in which certain local impact grants provided from proceeds of video lottery terminals are to be distributed in Baltimore City; ~~authorizing certain portions of the grants to be distributed to maintain and improve public facilities and places;~~ specifying that a certain portion of the grants to certain neighborhoods be distributed in a manner consistent with certain adopted neighborhood priorities; specifying that a certain portion of the grants to a neighborhood in the Northwest Community Planning Forum Strategic Neighborhood Action Plan be distributed in a manner that is consistent with that plan; authorizing a certain portion of the grants to be distributed to a certain neighborhood after a certain video lottery operation license is issued; requiring that a public hearing be held on a certain plan to allocate certain funds; ~~authorizing the Mayor and City Council of Baltimore City to alter certain recommendations of the local development council under certain circumstances;~~ and generally relating to the distribution of video lottery local impact grants in Baltimore City.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–31
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

9–1A–31.

(a) (1) Except as provided in paragraph (4) of this subsection, the local impact grants provided under § 9–1A–27 of this subtitle shall be distributed in the following manner:

(i) 82% to the local jurisdictions with video lottery facilities, based on each jurisdiction's percentage of overall gross revenues from video lottery terminals; and

(ii) except as provided in paragraph (2) of this subsection, for operations at a video lottery facility starting in fiscal year 2012 and ending in fiscal year 2032, 18% to Baltimore City with the Pimlico Community Development Authority acting as the local development council in accordance with subsection (d) of this section, to be distributed primarily for capital projects benefiting economic and community development in the following manner:

1. at least 75% in a manner that is consistent with the Park Heights Master Plan ~~**OR TO MAINTAIN AND IMPROVE PUBLIC FACILITIES AND PLACES**~~; and

2. the remainder dedicated to the needs of:

A. any census blockgroup that Baltimore City identifies as being located partly or entirely within 1 mile of Pimlico Race Course but not within the boundaries of the Park Heights Master Plan **IN A MANNER THAT IS CONSISTENT WITH ADOPTED NEIGHBORHOOD PRIORITIES**; **[**and**]**

B. any neighborhood included in the Northwest Community Planning Forum Strategic Neighborhood Action Plan **IN A MANNER THAT IS CONSISTENT WITH THE ADOPTED NORTHWEST COMMUNITY PLANNING FORUM STRATEGIC NEIGHBORHOOD ACTION PLAN PRIORITIES** ~~**OR TO MAINTAIN AND IMPROVE PUBLIC FACILITIES AND PLACES**~~**; AND**

C. BEGINNING AFTER A VIDEO LOTTERY OPERATION LICENSE IS ISSUED TO A VIDEO LOTTERY FACILITY IN BALTIMORE CITY, ANY NEIGHBORHOOD WITHIN AN AREA BOUNDED BY LIBERTY HEIGHTS AVENUE, NORTHERN PARKWAY, DRUID PARK DRIVE, AND WABASH AVENUE IN A MANNER THAT IS CONSISTENT WITH ADOPTED NEIGHBORHOOD PRIORITIES.

(2) (i) Of the amount specified under paragraph (1)(ii) of this subsection, $1,000,000 shall be provided annually to Prince George's County to be used for public safety projects in the community within 5 miles surrounding Rosecroft Raceway.

(ii) The Legislative Policy Committee shall report its findings and recommendations concerning the advisability of the continuation of the distribution of funds after fiscal year 2032 to the Comptroller and, in accordance with § 2–1246 of this article, the General Assembly, on or before November 1, 2030.

(3) Baltimore City and Prince George's County shall report to the Legislative Policy Committee by December 31 of each year as to the distribution of the funds provided under this section.

(4) Beginning after a video lottery operation license is issued to a video lottery facility in Baltimore City, 100% of the local impact grants provided under § 9–1A–27 of this subtitle from the proceeds of the video lottery facilities located in Allegany, Cecil, and Worcester counties shall be distributed to the local jurisdictions in which those video lottery facilities are located.

(b) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, local impact grants provided under subsection (a)(1)(i) of this section shall be used for improvements primarily in the communities in immediate proximity to the video lottery facilities and may be used for the following purposes:

(i) infrastructure improvements;

(ii) facilities;

(iii) public safety;

(iv) sanitation;

(v) economic and community development, including housing; and

(vi) other public services and improvements.

(2) In Allegany County, local impact grants provided under subsection (a)(1)(i) of this section may be used:

(i) for purposes listed in paragraph (1) of this subsection throughout the county; and

(ii) to pay down the debt incurred by the county in the construction and related costs for the golf course, lodge, and other improvements in Rocky Gap State Park.

(3) In Baltimore City, local impact grants provided under subsection (a)(1)(i) of this section shall be used for improvements in the communities in immediate proximity to the video lottery facility and may be used for the following purposes:

(i) infrastructure improvements;

(ii) facilities;

(iii) public safety;

(iv) sanitation;

(v) economic and community development, including housing; and

(vi) other public services and improvements.

(c) (1) A local development council shall be established in each geographic area where a video lottery facility is located.

(2) Subject to paragraph (3) of this subsection, a local development council shall consist of the following 15 members appointed by the chief executive of the county in which the local development council is located, in consultation with the Senators and Delegates who represent the communities surrounding the facility and the respective county councils, city councils, or county commissioners:

(i) one Senator who represents the district where the facility is located;

(ii) two Delegates who represent the districts where the communities surrounding the facility are located;

(iii) one representative of the video lottery operation licensee;

(iv) seven residents of the communities in immediate proximity to the facility; and

(v) four representatives of businesses or institutions located in immediate proximity to the facility.

(3) (i) If the video lottery facility is at a racetrack location at Laurel Park, the County Executive of Anne Arundel County, the County Executive of Prince George's County, and the County Executive of Howard County shall jointly appoint the local development council.

(ii) If the video lottery facility is at a racetrack location at the Ocean Downs Race Course:

1. the County Commissioners of Worcester County shall appoint the local development council;

2. the Senator or the Senator's designee shall serve as a member of the local development council; and

3. the Delegates or the Delegates' designees shall serve as members of the local development council.

(d) (1) Prior to any expenditure of local impact grant funds provided under § 9–1A–27 of this subtitle, a county or municipality shall develop, in consultation with the local development council, a multiyear plan for the expenditure of the local impact grant funds for services and improvements consistent with subsection (b) of this section.

(2) A county or municipality shall submit the plan to the local development council for review and comment before adopting the plan or expending any grant funds.

(3) The local development council shall advise the county or municipality on the impact of the facility on the communities and the needs and priorities of the communities in immediate proximity to the facility.

(4) (i) A local development council shall have 45 days to review, comment, and make recommendations on the plan required under this subsection.

(ii) **[**On**] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, ON** the request of a local development council, the county or municipality shall hold a public hearing on the plan.

(III) BALTIMORE CITY SHALL HOLD A PUBLIC HEARING ON THE PLAN FOR THE EXPENDITURE OF FUNDS ALLOCATED UNDER SUBSECTION (A)(1)(II) OF THIS SECTION.

(5) ~~**(I)**~~ **[**A**]** ~~**SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**~~ county or municipality shall make best efforts to accommodate the recommendations of the local development council and any testimony presented at the hearing before adopting the plan required under this subsection.

~~**(II) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY ALTER THE RECOMMENDATIONS OF THE LOCAL DEVELOPMENT COUNCIL IF THE RECOMMENDATIONS WOULD RESULT IN UNNECESSARY HARDSHIP OR PRACTICAL DIFFICULTY.**~~

(e) A video lottery operation licensee shall provide to the local development council a master plan for the development of the site on which the video lottery facility will be located.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 144

(House Bill 1070)

AN ACT concerning

Alcoholic Beverages – City of College Park – Sales by License Holders Near School Buildings

PG 309–13

FOR the purpose of ~~requiring the City Council of the City of College Park to make a certain determination regarding~~ authorizing, in the City of College Park, the granting of a license to sell alcoholic beverages in a certain building located within a certain distance of a ~~place of worship~~ school building under certain circumstances; making certain stylistic changes; and generally relating to the sale of alcoholic beverages in the City of College Park.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–217(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–217(e)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

9–217.

(a) This section applies only in Prince George's County.

(e) (1) (i) Except as provided in ~~item~~ **ITEMS** (ii) **AND (III)** of this paragraph, a license may not be granted to sell alcoholic beverages in any building located within 1,000 feet of a school building, or within 500 feet of a place of worship. The 1,000 feet, or the 500 feet, as the case may be, is to be measured from the front door or main entrance, whichever is nearest the street abutting the premises, of the proposed licensed establishment along the nearest usual pedestrian route to the door closest to the licensed premises which is used as an entrance or exit to any school, or to the main entrance of the place of worship.

(ii) In the part of the Gateway Arts and Entertainment District located in the City of Hyattsville, as designated by the Secretary of Business and Economic Development, the front door or main entrance of an establishment for which a Class D beer and wine license is issued may be used if the door or entrance is at least 350 feet from a place of worship.

(III) IN THE CITY OF COLLEGE PARK, A LICENSE MAY BE GRANTED TO SELL ALCOHOLIC BEVERAGES IN A BUILDING LOCATED MORE THAN 400 FEET FROM A SCHOOL BUILDING IF THE LAND ON WHICH THE PROPOSED LICENSED ESTABLISHMENT IS LOCATED IS IN A COMMERCIAL DISTRICT.

(2) **[**This**]** ~~**EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (7) OF THIS SUBSECTION, THIS**~~ restriction does not apply in the case of a **[**church**]** **PLACE OF WORSHIP** if the governing body of the **[**church**]** **PLACE OF WORSHIP** concerned consents in writing to the granting of the license. The consent shall be filed with the application. The license of any person or persons or for the use of a corporation or unincorporated association issued for any building located within the requisite distance from a **[**church**]** **PLACE OF WORSHIP** or school building may be renewed or extended for the same building.

(3) This restriction does not apply to any transfer or assignment of a license located within the distance of 1,000 feet to another place of business within the specified distance **[**and/**]**or to an assignee of the license within the distance of the same **[**church**]** **PLACE OF WORSHIP** or school building.

(4) This does not apply to the issuance of a license for a place of business, not having an alcoholic beverage license, to which an alcoholic beverage license had been issued and was in force and effect on June 1, 1965, as to a license of the same class which was in force and effect as of that date, applied for in the place of business nor to a renewal of a license of any establishment where, subsequent to the original granting of the license a school **[**or church**]** building **OR PLACE OF WORSHIP** was erected within 1,000 feet.

(5) This subsection does not apply to any license issued under § 6–201(r)(2), (4), (5), (15), (16), or (18) or § 7–101 of this article.

(6) This restriction does not apply in the case of a private kindergarten or nursery school.

~~**(7) (I) THIS PARAGRAPH APPLIES ONLY IN THE CITY OF COLLEGE PARK.**~~

~~**(II) THE CITY COUNCIL OF THE CITY OF COLLEGE PARK SHALL DETERMINE IF A LICENSE MAY BE GRANTED TO SELL ALCOHOLIC**~~

~~BEVERAGES IN A BUILDING LOCATED WITHIN 500 FEET OF THE PLACE OF WORSHIP.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 145

(House Bill 1079)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Salary of Part–Time Liquor Inspectors

PG 316–13

FOR the purpose of making certain technical corrections to clarify that the annual salary of part–time liquor inspectors in Prince George's County is ~~at least~~ a certain amount; and generally relating to the compensation of liquor inspectors in Prince George's County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 15–109(r)(1) and 15–112(r)(1) and (3)(ii)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–109(r)(6) and 15–112(r)(3)(iii)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

15–109.

(r) (1) This subsection applies only in Prince George's County.

(6) (i) The County Council shall pay for all expenses of the Board of License Commissioners upon the submission of an annual budget.

(ii) In that budget, the salary of the members of the Board, the salary of the attorney for the Board, and any additional compensation for legal fees for the attorney for the Board, shall be approved as hereinbefore set forth.

(iii) Except as provided in subparagraph (iv) of this paragraph, all other expenses, including, but not restricted to, the salary of the administrator as limited herein, compensation of other personnel, who shall be qualified and employed under the county merit system, printing, supplies, and office space, shall be at the discretion of the County Council.

[(iv) Each inspector shall receive an annual salary of $10,900.**]**

15–112.

(r) (1) This subsection applies only in Prince George's County.

(3) (ii) There are three full–time and 32 part–time inspectors, all of whom shall be county residents. The three full–time inspector positions shall be designated as the chief inspector and the deputy chief inspectors. The three full–time inspectors who meet the standards set out by the Prince George's County merit board and who are certified by the personnel director as meeting these standards shall be entitled to the provisions of the county merit system.

(iii) Each part–time inspector shall receive an annual salary of ~~not less than~~ **[**$9,976**] $10,900**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 146

(House Bill 1088)

AN ACT concerning

Business Regulation – Returnable Containers and Returnable Textiles – Revisions

FOR the purpose of authorizing the owner of a returnable container or returnable textile to bring a certain civil action and to recover a certain amount in damages

and certain attorney's fees; increasing certain penalties and fines for certain violations of law relating to returnable containers and returnable textiles; repealing a provision of law relating to the application for an arrest warrant for certain persons under certain circumstances; and generally relating to returnable containers and returnable textiles.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 19–302, 19–304, 19–305, and 19–308
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Regulation

19–302.

(a) In this subtitle, requiring or accepting a deposit on a registered returnable container, whether optional, conditional, or otherwise, does not constitute a sale of the container.

(b) **[**This subtitle does not prohibit:**]**

(1) **[**the**] THE** owner of a returnable container or returnable textile **[**from bringing**] MAY BRING** a civil action, including an action for injunctive relief, to preserve the rights of the owner, to recover damages, or to recover the returnable container or returnable textile, from a person who unlawfully possesses the returnable container or returnable textile of the owner**[**; or**].**

(2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, THE OWNER OF A RETURNABLE CONTAINER OR RETURNABLE TEXTILE MAY RECOVER UP TO THREE TIMES THE VALUE OF THE ACTUAL DAMAGES, PLUS REASONABLE ATTORNEY'S FEES.

[(2)**] (C) THIS SUBTITLE DOES NOT PROHIBIT** a prosecution for theft under § 7–104 of the Criminal Law Article.

19–304.

(a) (1) After the recordation, a person may not:

(i) use a registered returnable container of another with contents of a nature different from that delivered; or

(ii) sell, buy, rent, or otherwise traffic in a registered returnable textile of another.

(2) A person who violates this subsection:

(i) is guilty of a misdemeanor and on conviction is subject to:

1. for a first violation, imprisonment not exceeding 1 year or a fine not exceeding **[**$50**] $1,000**; and

2. for each subsequent violation, imprisonment not exceeding **[**1 year**] 3 YEARS** or a fine not exceeding **[**$250**] $2,500** or both; and

(ii) shall forfeit to the rightful owner possession of the property involved in the violation.

(b) (1) After the recordation, a person may not willfully deface, remove, conceal, or destroy an identifying name, mark, or device attached, impressed, or imprinted on a returnable container or returnable textile of another.

(2) A person who violates this subsection:

(i) is guilty of a misdemeanor and on conviction is subject to:

1. for a first violation, imprisonment not exceeding 1 year or a fine not exceeding **[**$50**] $1,000**; and

2. for each subsequent violation, imprisonment not exceeding **[**1 year**] 3 YEARS** or a fine not exceeding **[**$250**] $2,500** or both; and

(ii) shall forfeit to the rightful owner possession of the property involved in the violation.

(c) (1) After the recordation, a person may not willfully break, destroy, or otherwise injure a returnable container or returnable textile of another.

(2) A person who violates this subsection:

(i) is guilty of a misdemeanor and on conviction is subject to:

1. for a first violation, imprisonment not exceeding 1 year or a fine not exceeding **[**$50**] $1,000**; and

2. for each subsequent violation, imprisonment not exceeding **[**1 year**] 3 YEARS** or a fine not exceeding **[**$250**] $2,500** or both; and

(ii) shall forfeit to the rightful owner possession of the property involved in the violation.

(d) (1) After the recordation, a person may not buy, offer for sale, sell, use, give, receive, hire, rent, lend, transport, collect from ash or garbage receptacles, dumps, or premises, keep in stock or store, or dispose of a returnable container or returnable textile of another without an assignment from or the written consent of the registered owner.

(2) A person who violates this subsection:

(i) is guilty of a misdemeanor and on conviction is subject to:

1. for each first violation, imprisonment not exceeding 1 year or a fine not exceeding **[**$50**] $1,000**; and

2. for each subsequent violation, imprisonment not exceeding **[**1 year**] 3 YEARS** or a fine not exceeding **[**$250**] $2,500** or both; and

(ii) shall forfeit to the rightful owner possession of the property involved in the violation.

(e) A person may not adopt and register under this subtitle a returnable container or returnable textiles, or a description, name, mark or device, that:

(1) has been previously registered by another; or

(2) is in use by another in good faith.

(f) (1) A person who receives a registered returnable container or registered returnable textile may not fail on demand to surrender promptly the container or textile to the person from whom the container or textile was received.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to **[**a fine of $1**]:**

(I) FOR EACH FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000; AND

(II) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $2,500 OR BOTH.

(g) (1) A person who receives a registered returnable container that has come into immediate contact with a dairy product shall thoroughly clean the inside of the container immediately after emptying the contents.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine of **[**$1**] $500**.

19–305.

[(a)**]** A District Court judge shall issue a search warrant, authorizing a search of the premises specified in the warrant, to a sheriff, deputy sheriff, or other law enforcement officer to whom a warrant may be directed, if a person who has registered a returnable container or returnable textile, or the person's agent, makes an affidavit before the judge, stating that:

(1) the affiant demonstrates probable cause to believe that a violation of § 19–304(a), (b), (c), or (d) of this subtitle has occurred; and

(2) evidence of the violation may be obtained by a search of premises specified by the affiant.

[(b) If all or part of a registered returnable container, or returnable textile is found on or about the premises specified in the warrant:

(1) the law enforcement officer executing the search warrant shall report the findings under oath to the judge; and

(2) after receiving the report and charging a violation of § 19–304(a), (b), (c), or (d) of this subtitle, the judge shall issue an arrest warrant for the person against whom the charge is made.**]**

19–308.

(a) (1) In this section, "plastic secondary packaging" means a plastic crate or shell used for the bulk transportation, storage, or carrying of retail items.

(2) "Plastic secondary packaging" includes milk crates, bakery and soft drink trays, and other commercial plastic secondary packaging.

(b) Other than a manufacturer of plastic secondary packaging, a person may not purchase four or more items of plastic secondary packaging for the purpose of recycling, shredding, or destroying the items.

(c) (1) Each person that purchases an item of plastic secondary packaging, including a person that is in the business of recycling, shredding, or destroying plastic secondary packaging, shall make a written record of each transaction in which a person sells four or more items of plastic secondary packaging, that shows that the person selling the plastic secondary packaging has lawful possession or ownership of the plastic secondary packaging.

(2) For each transaction subject to paragraph (1) of this subsection, the purchaser shall:

(i) verify the seller's identity by a driver's license or other government–issued identification; and

(ii) make a record of each transaction that includes:

1. the name, address, telephone number, and signature of the seller or the seller's authorized representative;

2. the name and address of the purchaser;

3. the registration number and license tag number of any vehicle used in the delivery of the plastic secondary packaging;

4. a description of the items sold, including the number of units; and

5. the date of the transaction.

(d) The purchaser shall keep the records required by this section for at least 1 year after the date of purchase.

(e) A person that violates this section is guilty of a misdemeanor and on conviction is subject to **[**a fine of $100**]:**

(1) FOR EACH FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000; AND

(2) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $2,500 OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 147

(House Bill 1107)

AN ACT concerning

~~Task Force on the Membership and to Evaluate Best Practices for School Board Operation of the in~~ Prince George's County *– School System – Academic Revitalization and Management Effectiveness Initiative* ~~Board of Education~~

PG 411–13

FOR the purpose of ~~establishing the Task Force on the Membership and to Evaluate Best Practices for School Board Operation of the in Prince George's County Board of Education; providing for the chairs and staff for the Task Force; prohibiting a member of the Task Force from receiving certain compensation but entitling members to reimbursement for certain expenses; requiring the Task Force to make certain recommendations, including recommendations regarding the method of selecting the Prince George's County Board of Education; requiring the Task Force to hold a certain number of public meetings in certain locations that allow certain persons to testify about certain issues; requiring the Task Force to review information, reports, and testimony regarding certain innovations in school board operation from certain organizations; requiring the Task Force to submit a certain report reports to certain persons on or before a certain date; dates; requiring the Task Force to publish a draft of certain findings and recommendations and to hold a certain public hearing to allow certain public comment; providing for the termination of this Act; and generally relating to the Task Force on the Membership and to Evaluate Best Practices for School Board Operation of the in Prince George's County Board of Education.~~ *revising the composition of the Prince George's County Board of Education; providing for the appointment of certain members of the county board by the County Executive of Prince George's County and the Prince George's County Council; providing for the qualifications, terms of office, and the filling of a vacancy of certain members of the county board; authorizing the appointed members of the county board to participate in certain votes relating to the student member; repealing certain provisions for the filling of a vacancy of certain members of the county board; authorizing the provision of compensation, health insurance, and other fringe benefits for appointed members of the county board; requiring the County Executive to appoint a chair and vice chair of the county board; requiring the County Executive to select the vice chair of the county board from among the elected members of the county board; providing for the terms of the chair and vice chair of the county board; requiring the affirmative vote of a certain number of members of the county board for the passage of a certain motion; establishing that, in Prince George's County, the county superintendent is the Chief Executive Officer of the Prince George's County public school system; authorizing the Chief Executive Officer to consolidate schools under certain circumstances; exempting Prince George's County from certain provisions of law relating to county superintendents; subject to certain provisions of law, requiring the County Executive to select the Chief Executive Officer from a certain list recommended by a certain search committee; requiring the county board to appoint the Chief Executive Officer after agreement on certain contract terms; providing for the qualifications, term of office,*

reappointment, suspension, removal, and filling of a vacancy in the office of the Chief Executive Officer; providing for the compensation of the Chief Executive Officer; providing for the administration of the office of the Chief Executive Officer; requiring the Chief Executive Officer to immediately notify the County Executive and the county board in writing of certain criminal charges; establishing the purpose of the county board; establishing certain responsibilities, powers, and duties of the Chief Executive Officer, including hiring and setting the salary of certain executive officers and staff of the Prince George's County public school system and entering into a certain memorandum of understanding with certain institutions of higher education; authorizing the Chief Executive Officer to delegate certain responsibilities; prohibiting the county board from implementing a certain policy or taking a certain action except by a certain vote, except in certain circumstances; requiring the County Executive and the County Council to appoint certain members and the chair and vice chair of the county board by a certain date; requiring that, to fill a certain vacancy, a certain search committee be appointed by a certain date and a certain chair of the county board include a certain requirement in the terms of the contract of a certain Chief Executive Officer; authorizing the selection and appointment of a certain Chief Executive Officer after a certain date to a certain term; requiring the Chief Executive Officer and the county board to hire a consultant to conduct a school utilization study and make certain recommendations to the Chief Executive Officer, county board, County Executive, and County Council on or before a certain date; requiring the County Executive, Chief Executive Officer, and county board to submit an interim report on the implementation of this Act to certain committees of the General Assembly on or before a certain date; requiring the County Executive, Chief Executive Officer, and county board to submit a final report on academic progress and improvement in the management of the Prince George's County public school system and make certain recommendations to certain committees of the General Assembly on or before a certain date; requiring the General Assembly to make a certain determination during a certain legislative session; making this Act an emergency measure; and generally relating to the academic revitalization and management of the Prince George's County public school system.

BY repealing and reenacting, with amendments,
Article – Education
Section 3–105, 3–114, 3–1002 through 3–1004, 4–101, 4–102(a), 4–120, 4–201, 4–202, 4–204, 4–206, and 6–201(a) and (b)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 4–201.1; and 4–401 through 4–403 to be under the new subtitle "Subtitle 4. Prince George's County"
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That *the Laws of Maryland read as follows*:

~~(a) There is a Task Force on the Membership and to Evaluate Best Practices for School Board Operation of the in Prince George's County Board of Education.~~

~~(b) The Task Force consists of the following nine 13 members:~~

~~(1) the Chair of the Prince George's County Senate Delegation, or the Chair's designee;~~

~~(2) one member of the Senate of Maryland who represents Prince George's County, appointed by the Chair of the Prince George's County Senate Delegation;~~

~~(3) the Chair of the Prince George's County House Delegation, or the Chair's designee;~~

~~(4) one member of the House of Delegates who represents Prince George's County, appointed by the Chair of the Prince George's County House Delegation;~~

~~(5) (3) the Chair of the Prince George's County Board of Education, or the Chair's designee;~~

~~(6) (4) the Superintendent of Prince George's County Public Schools, or the Superintendent's designee;~~

~~(7) (5) the Prince George's County Executive, or the County Executive's designee;~~

~~(8) one member of the Prince George's County Council, appointed by the Chair of the Prince George's County Council; and~~

~~(9) one member who represents the Maryland Association of Boards of Education, appointed by the Association.~~

~~(6) the Chair of the Prince George's County Council, or the Chair's designee;~~

~~(7) one teacher appointed by the Prince George's County Educators' Association; and~~

~~(8) the following individuals jointly appointed by the Prince George's County Executive and the Chair of the Prince George's County Board of Education:~~

~~(i) two individuals who have experience in management or business enterprise;~~

~~(ii) two individuals who have expertise in the education field; and~~

~~(iii) two individuals who are parents of students in the Prince George's County Public Schools, at least one of whom has a child who receives special education services.~~

~~(c) The Chair of the Prince George's County Senate Delegation and the Chair of the Prince George's County House Delegation shall jointly designate the cochairs of the Task Force from among the members of the Task Force from the Senate of Maryland and the House of Delegates.~~

~~(d) The Department of Legislative Services and staff of the Prince George's County Delegation shall provide staff for the Task Force.~~

~~(e) A member of the Task Force:~~

~~(1) may not receive compensation as a member of the Task Force; but~~

~~(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(f) The Task Force shall study and make recommendations regarding the Prince George's County Board of Education as to:~~

~~(1) the composition, qualifications, and compensation of members of the Board;~~

~~(2) methods for selecting the members of the Board;~~

~~(3) an appropriate phase-in period for any recommended changes to the existing Board composition;~~

~~(4) a Board composition that reflects the gender and racial diversity of Prince George's County;~~

~~(5) criteria that improve standards and protocols to maximize Board results, accountability, transparency, and oversight;~~

~~(6) criteria (3) standards and protocols for establishing and measuring Board outcomes;~~

~~(4) protocols for increasing public awareness and providing objective voter information regarding school board elections;~~

~~(7)~~ ~~(5)~~ ~~a protocol for the review of Board audits and protocols for addressing audit findings, including financial, performance, and outcome audits; and~~

~~(6)~~ ~~the means to increase the efficiency of the school board; and~~

~~(8)~~ ~~(7)~~ ~~any other relevant issues.~~

~~(g) (1) (i)~~ ~~The Task Force shall hold at least three public meetings in geographically diverse areas of Prince George's County that allow members of the general public and stakeholder organizations to testify on issues being studied by the Task Force.~~

~~(ii)~~ ~~One of the meetings required under subparagraph (i) of this paragraph may include a regularly scheduled public hearing of the Board.~~

~~(2)~~ ~~The Task Force shall extend an invitation to testify at a public meeting to representatives from the following stakeholder organizations to testify at a public meeting, including:~~

~~(i)~~ ~~the Prince George's County Educator's Association;~~

~~(ii)~~ ~~the Prince George's County SEIU Local 400;~~

~~(iii)~~ ~~the Prince George's County Association of Supervisory and Administrative School Personnel;~~

~~(iv)~~ ~~the Prince George's County AFSCME 2250;~~

~~(v)~~ ~~the PTA Council of Prince George's County;~~

~~(vi)~~ ~~the Prince George's County Student Councils;~~

~~(vii)~~ ~~the Prince George's County chapter of the NAACP;~~

~~(viii)~~ ~~the Prince George's County Board of Education; and~~

~~(ix)~~ ~~the Prince George's County Municipal Association.~~

~~(3)~~ ~~The Task Force shall review information, reports, and testimony relating to innovations in school board operation published by national organizations, including:~~

~~(i)~~ ~~the United States Department of Education;~~

~~(ii)~~ ~~the Council of Chief State School Officers;~~

~~(iii) the Council of State Governments;~~

~~(iv) the Education Commission of the States;~~

~~(v) the Alliance for Excellent Education;~~

~~(vi) the National Governor's Association for Best Practices;~~

~~(vii) the National Association of State Boards of Education; and~~

~~(viii) the National Parent Teachers Association.~~

~~(h) (1) On or before December 1, 2013, the Task Force shall report its interim findings and recommendations to the Prince George's County Executive, the Prince George's County Council, the Prince George's County Superintendent of Schools, the Prince George's County Board of Education, and, in accordance with § 2–1246 of the State Government Article, the Prince George's County Senate Delegation and the Prince George's County House Delegation.~~

~~(2) Before reporting its final findings and recommendations as required under paragraph (3) of this subsection, the Task Force shall:~~

~~(i) publish a draft of its final findings and recommendations; and~~

~~(ii) hold a public hearing to allow public comment on the draft final findings and recommendations.~~

~~(3) On or before October 31, 2013 December 1, 2014, the Task Force shall report its final findings and recommendations to the Governor, the State Superintendent of Schools, the Prince George's County Executive, the Prince George's County Council, the Prince George's County Superintendent of Schools, the Prince George's County Board of Education, and, in accordance with § 2–1246 of the State Government Article, the Prince George's County Senate Delegation and the Prince George's County House Delegation.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. It shall remain effective for a period of 1 year 2 years and, at the end of June 30, 2014 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Article – Education

3–105.

(a) Subsections (b), (c), and (d) of this section do not apply to a county if the number of members of the county board is regulated by other provisions of this title.

(b) If a county school system has an enrollment of less than 50,000 students, the county board shall have five members, except that:

(1) The Worcester County Board shall have the number of members provided in subsection (e) of this section;

(2) Any county board that had more than five members on July 1, 1969, shall retain that number of members; and

(3) The Wicomico County Board shall have the number of members provided in subsection (f) of this section.

(c) If a county school system has an enrollment of 50,000 students or more but less than 100,000 students, the county board shall have seven members.

(d) If a county school system has an enrollment of 100,000 students or more, the county board shall have nine members except as provided in § 3–901 of this title for Montgomery County ***AND § 3–1002 OF THIS TITLE FOR PRINCE GEORGE'S COUNTY****.*

(e) The Worcester County Board consists of seven voting members and one nonvoting student member from each public high school in the county.

(f) (1) The Wicomico County Board consists of seven members.

(2) The term of a member is 5 years.

3–114.

(a) In the following counties, the members of the county board shall be elected:

(1) Allegany;

(2) Calvert;

(3) Carroll;

(4) Cecil;

(5) Charles;

(6) Dorchester;

(7) Frederick;

(8) Garrett;

(9) Howard;

(10) Kent;

[**(11) Prince George's;**]

***[**(12)**] (11)** Montgomery;*

***[**(13)**] (12)** Queen Anne's;*

***[**(14)**] (13)** St. Mary's;*

***[**(15)**] (14)** Somerset;*

***[**(16)**] (15)** Talbot;*

***[**(17)**] (16)** Washington; and*

***[**(18)**] (17)** Worcester.*

(b) In Caroline County, in accordance with Subtitle 3A of this title, the members of the county board shall be a combination of members who are elected and appointed.

(c) In Harford County, in accordance with Subtitle 6A of this title, the members of the county board shall be a combination of members who are elected and appointed.

(D) IN PRINCE GEORGE'S COUNTY, IN ACCORDANCE WITH SUBTITLE 10 OF THIS TITLE, THE MEMBERS OF THE COUNTY BOARD SHALL BE A COMBINATION OF MEMBERS WHO ARE ELECTED AND APPOINTED.

***[**(d)**] (E)** An individual subject to the authority of the county board may not serve as a member of the county board. At the time of filing a certificate of candidacy for election to a county board, a person shall certify to the local board of supervisors of elections whether or not he is subject to the authority of the county board. The Governor shall not issue a commission of election to a person who has certified affirmatively and who is elected to a county board until the member–elect offers proof that he is no longer subject to the authority of the county board.*

***[**(e)**] (F)** The election of the county boards shall be held as provided in Subtitles 2 through 14 of this title and the Election Law Article.*

3–1002.

(a) ***(1)*** *In this subtitle**[**, "elected**]*** ***THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.***

(2) "APPOINTED MEMBER" MEANS A MEMBER OF THE PRINCE GEORGE'S COUNTY BOARD APPOINTED UNDER SUBSECTION (F) OF THIS SECTION.

(3) "ELECTED *member" means a member of the Prince George's County Board elected from one of the nine school board districts described in § 3–1001 of this subtitle.*

*(b) The Prince George's County Board consists of **[**10**]*** ***14*** *members as follows:*

*(1) Nine elected members, each of whom resides in a different school board district; **[**and**]***

(2) FOUR APPOINTED MEMBERS; AND

[(2)***] (3)*** *One student member selected under subsection **[**(f)(2)**]*** ***(G)(2)*** *of this section.*

(c) (1) One member of the county board shall be elected from each of the nine school board districts described in § 3–1001 of this subtitle.

(2) From the time of filing as a candidate for election, each candidate shall be a registered voter of the county and a resident of the school board district the candidate seeks to represent.

(3) An elected county board member shall forfeit the office if the member:

(i) Fails to reside in the school board district from which the member was elected, unless this change is caused by a change in the boundaries of the district; or

(ii) Fails to be a registered voter of the county.

(4) A county board member may not hold another office of profit in county government during the member's term.

(5) Each elected member of the county board shall be nominated by the registered voters of the member's school board district.

(d) The elected members of the county board shall be elected:

(1) At the general election every 4 years as required by subsection (g) of this section; and

(2) By the voters of the school board district that each member represents.

(e) (1) If a candidate for the county board dies or withdraws the candidacy during the period beginning with the date of the primary and ending 70 days before the date of the general election, the Board of Elections shall:

(i) Replace the name of the deceased or withdrawn candidate on the ballot for the general election with the name of the candidate who received the next highest number of votes in the primary election; or

(ii) If a contested primary was not held, reopen the filing process to allow other persons to file as candidates.

(2) (i) Except as otherwise provided in subparagraph (ii) of this paragraph, the Board of Elections shall add to the ballot for the general election the name of any person who files as a candidate in accordance with paragraph (1)(ii) of this subsection.

(ii) The Board of Elections may not add additional candidates to the ballot for the general election within 70 days before the date of the election.

(F) (1) THE APPOINTED MEMBERS OF THE COUNTY BOARD SHALL BE APPOINTED AS FOLLOWS:

(I) THREE MEMBERS SHALL BE APPOINTED BY THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY AS FOLLOWS:

1. ONE MEMBER SHALL POSSESS A HIGH LEVEL OF KNOWLEDGE AND EXPERTISE CONCERNING EDUCATION;

2. ONE MEMBER SHALL POSSESS A HIGH LEVEL OF BUSINESS, FINANCE, OR HIGHER EDUCATION EXPERIENCE; AND

3. ONE MEMBER SHALL POSSESS A HIGH LEVEL OF KNOWLEDGE AND EXPERTISE CONCERNING THE SUCCESSFUL ADMINISTRATION OF A LARGE BUSINESS, NONPROFIT, OR GOVERNMENTAL ENTITY; AND

(II) THE PRINCE GEORGE'S COUNTY COUNCIL SHALL APPOINT ONE MEMBER WHO IS A PARENT OF A STUDENT ENROLLED IN THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM AS OF THE DATE OF THE APPOINTMENT OF THE MEMBER.

(2) EACH APPOINTED MEMBER OF THE COUNTY BOARD SHALL BE A RESIDENT OF PRINCE GEORGE'S COUNTY.

[*(f)****] (G)*** *(1) The student member shall be an eleventh or twelfth grade student in the Prince George's County public school system during the student's term in office.*

(2) An eligible student shall file a nomination form at least 2 weeks before a special election meeting of the Prince George's Regional Association of Student Governments. Nomination forms shall be made available in the administrative offices of all public senior high schools in the county, the office of student concerns, and the office of the president of the regional association. The delegates to the regional association annually shall elect the student member to the board at a special election meeting to be held each school year.

(3) The student member may vote on all matters before the board except those relating to:

(i) Capital and operating budgets;

(ii) School closings, reopenings, and boundaries;

(iii) Collective bargaining decisions;

(iv) Student disciplinary matters;

(v) Teacher and administrator disciplinary matters as provided under § 6–202(a) of this article; and

(vi) Other personnel matters.

(4) On an affirmative vote of a majority of the elected ***AND APPOINTED*** *members of the county board, the board may determine if a matter before the board relates to a subject that the student member may not vote on under paragraph (3) of this subsection.*

(5) Unless invited to attend by an affirmative vote of a majority of the elected ***AND APPOINTED*** *members of the county board, the student member may not attend an executive session that relates to hearings on appeals of special education placements, hearings held under § 6–202(a) of this article, or collective bargaining.*

(6) The Prince George's Regional Association of Student Governments may establish procedures for the election of the student member of the county board.

(7) The election procedures established by the Prince George's Regional Association of Student Governments are subject to the approval of the elected ***AND APPOINTED*** *members of the county board.*

[*(g)****] (H)*** *(1) Except as provided in paragraph (2) of this subsection, an elected member serves for a term of 4 years beginning on the first Monday in December after the member's election and until the member's successor is elected and qualifies.*

(2) The terms of the elected members are staggered as follows:

(i) The five elected members who received the lowest percentage of votes, as determined by the final vote count of the 2010 General Election as certified by the Board of Elections, shall serve for a term of 2 years; and

(ii) The other four members elected in the 2010 General Election shall serve for a term of 4 years.

(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, AN APPOINTED MEMBER:

(I) SERVES FOR A TERM OF 4 YEARS BEGINNING ON THE DATE OF APPOINTMENT;

(II) MAY BE REAPPOINTED; AND

(III) SERVES UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS FOLLOWS:

(I) THE MEMBERS APPOINTED UNDER SUBSECTION (F)(1)(I)1 AND 2 OF THIS SECTION ON OR BEFORE JUNE 1, 2013, SHALL SERVE FOR AN INITIAL TERM OF 4 YEARS; AND

(II) THE MEMBER APPOINTED UNDER SUBSECTION (F)(1)(I)3 AND (II) OF THIS SECTION ON OR BEFORE JUNE 1, 2013, SHALL SERVE FOR AN INITIAL TERM OF 2 YEARS.

[*(3)****] (5)*** *The student member serves for a term of 1 year beginning at the end of a school year.*

[*(4) (i) 1. A seat on the county board held by an elected member that becomes vacant more than 180 days before the end of that member's term of office shall be filled for the remainder of the term at a special election.*

2. A seat on the county board held by an elected member that becomes vacant 180 days or less before the end of that member's term of office shall remain vacant until a successor is elected and qualifies.

(ii) 1. A. No later than 7 days after the occurrence of a vacancy on the county board that must be filled at a special election, the County Council shall adopt a resolution directing that a special primary election and special general election be held in the school board district where the vacancy occurs.

B. The County Council shall consult with the Board of Elections before adopting the resolution.

2. Subject to subparagraph (iii) of this paragraph, the County Council resolution shall specify:

A. The date by which a certificate of candidacy must be filed with the Board of Elections;

B. The date of the special primary election; and

C. The date of the special general election.

3. No later than 7 days after the adoption of the County Council resolution, the Board of Elections shall publish the information contained in the resolution once in at least one newspaper of general circulation.

(iii) 1. A candidate shall file a certificate of candidacy with the Board of Elections no later than 28 days before a special primary election in order to appear on the ballot.

2. The following provisions are subject to subsubparagraph 3 of this subparagraph:

A. A special primary election shall be held on a Tuesday at least 45 days but no later than 60 days after the occurrence of a vacancy.

B. A special general election shall be held on a Tuesday at least 60 days but no later than 90 days after the occurrence of a vacancy.

3. A special election may not be held less than 30 days before a regularly scheduled election.

4. On the day of a special election, polling places shall be open from 7 a.m. to 8 p.m.

(iv) 1. No later than 10 days before a special primary election and special general election, the Board of Elections shall mail a specimen ballot to the household of each registered voter in the school board district where the vacancy occurs.

2. The specimen ballot shall include the names of the candidates in the order and form in which they are to appear on the ballot, together with a statement, not to exceed 500 words, provided by each candidate.

(v) 1. Prince George's County shall fund a special election held under this paragraph.

2. The Board of Elections shall submit a request for a supplemental budget appropriation to the Director of the Office of Management and Budget to cover the cost of a special election no later than 60 days after the election.

(vi) A special election under this paragraph shall be governed by Title 8, Subtitle 8 of the Election Law Article and all other relevant provisions of law relating to the conduct of elections except as otherwise provided in this subtitle or where such construction would be unreasonable.]

(6) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF A SEAT HELD BY AN ELECTED MEMBER OF THE COUNTY BOARD BECOMES VACANT, THE COUNTY EXECUTIVE SHALL APPOINT A QUALIFIED INDIVIDUAL TO FILL THE SEAT FOR THE REMAINDER OF THE TERM.

(II) THE COUNTY COUNCIL SHALL REQUIRE A TWO–THIRDS VOTE OF ALL MEMBERS OF THE COUNTY COUNCIL TO REJECT AN APPOINTMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[*(h)****] (I)*** *(1) With the approval of the Governor, the State Board may remove a member of the county board for any of the following reasons:*

(i) Immorality;

(ii) Misconduct in office;

(iii) Incompetency; or

(iv) Willful neglect of duty.

(2) Before removing a member, the State Board shall send the member a copy of the charges pending and give the member an opportunity within 10 days to request a hearing.

(3) If the member requests a hearing within the 10–day period:

(i) The State Board promptly shall hold a hearing, but a hearing may not be set within 10 days after the State Board sends the member a notice of the hearing; and

(ii) The member shall have an opportunity to be heard publicly before the State Board in the member's own defense, in person or by counsel.

(4) A member removed under this subsection has the right to judicial review of the removal by the Circuit Court for Prince George's County based on an administrative record and such additional evidence as would be authorized by § 10–222(f) and (g) of the State Government Article.

***[**(i)**] (J)** While serving on the county board, a member may not be a candidate for a public office other than a position on the county board.*

3–1003.

*(a) (1) From and after December 4, 2006, at the beginning of each member's full term, the chair of the county board is entitled to receive $19,000 annually as compensation and the other elected **AND APPOINTED** members are each entitled to receive $18,000 annually as compensation.*

*(2) Each elected **AND APPOINTED** member of the county board may be provided health insurance and other fringe benefits regularly provided to employees of the Board of Education under the same terms and conditions extended to other employees of the Board of Education.*

(b) (1) After submitting vouchers under the rules and regulations adopted by the county board, the chair and the other members, including the student member, are entitled to the allowances for travel and other expenses provided in the Prince George's County budget.

(2) A member of the county board may not be reimbursed more than $7,000 in travel and other expenses incurred in a single fiscal year.

3–1004.

*(a) **(1)** The **[**county board shall hold an annual meeting on the first Monday in December to elect**]** **COUNTY EXECUTIVE SHALL APPOINT** a chair and vice chair **OF THE COUNTY BOARD** from among **[**its**]** **THE** members **OF THE COUNTY BOARD.***

(2) THE COUNTY EXECUTIVE SHALL SELECT THE VICE CHAIR FROM AMONG THE ELECTED MEMBERS OF THE COUNTY BOARD.

(3) THE TERM OF THE CHAIR AND VICE CHAIR APPOINTED UNDER THIS SUBSECTION SHALL BE 2 YEARS.

(b) ***SUBJECT TO THE PROVISIONS OF § 4–403 OF THIS ARTICLE, THE AFFIRMATIVE VOTE OF THE MEMBERS OF THE COUNTY BOARD FOR THE PASSAGE OF A MOTION BY THE COUNTY BOARD SHALL BE:***

*(1) Except as otherwise provided in paragraph (2) of this subsection***[***, the affirmative vote of the members of the county board for the passage of a motion by the county board shall be***]****:*

(i) ***[****Six****] EIGHT** members when the student member is voting; or*

(ii) ***[****Five****] SEVEN** members when the student member is not voting.*

*(2) When there are two or more vacancies on the county board***[***, the affirmative vote of the members of the county board for the passage of a motion by the board shall be***]****:*

(i) ***[****Five****] SEVEN** members when the student member is voting; or*

(ii) ***[****Four****] SIX** members when the student member is not voting.*

4–101.

(a) ***[****Educational****] SUBJECT TO THE PROVISIONS OF SUBTITLE 4 OF THIS TITLE, EDUCATIONAL** matters that affect the counties shall be under the control of a county board of education in each county.*

(b) Each county board shall seek in every way to promote the interests of the schools under its jurisdiction.

4–102.

(a) (1) Except in Baltimore City, the county superintendent is the executive officer, secretary, and treasurer of the county board.

(2) (i) In Baltimore City, the Chief Executive Officer of the Baltimore City Board of School Commissioners is the executive officer, secretary, and treasurer of the Board of School Commissioners.

(ii) The Chief Executive Officer shall have the powers and duties imposed under this article.

(iii) The Chief Executive Officer is not a public officer under the Constitution or the laws of the State.

(3) (I) IN PRINCE GEORGE'S COUNTY, THE COUNTY SUPERINTENDENT IS THE CHIEF EXECUTIVE OFFICER OF THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM.

(II) THE CHIEF EXECUTIVE OFFICER IS THE EXECUTIVE OFFICER, SECRETARY, AND TREASURER OF THE COUNTY BOARD.

(III) THE CHIEF EXECUTIVE OFFICER SHALL HAVE THE POWERS AND DUTIES IMPOSED UNDER THIS ARTICLE.

(IV) THE CHIEF EXECUTIVE OFFICER IS NOT A PUBLIC OFFICER UNDER THE CONSTITUTION OR THE LAWS OF THE STATE.

[*(3)****] (4)*** *A county superintendent is not a public officer under the Constitution or the laws of the State.*

4–120.

(a) ***[****If****] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF*** *a county board considers it practicable, it shall consolidate schools.*

(b) ***[****Each****] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EACH*** *county board shall arrange for the transportation of students to and from consolidated schools.*

(C) IN PRINCE GEORGE'S COUNTY, THE CHIEF EXECUTIVE OFFICER SHALL HAVE THE AUTHORITY TO:

(1) CONSOLIDATE SCHOOLS IF CONSIDERED PRACTICABLE; AND

(2) ARRANGE FOR THE TRANSPORTATION OF STUDENTS TO AND FROM CONSOLIDATED SCHOOLS.

4–201.

(a) ***(1)*** *This section does not apply to Baltimore City.*

(2) SUBSECTIONS (B), (C), (D), AND (F) OF THIS SECTION DO NOT APPLY IN PRINCE GEORGE'S COUNTY.

(b) (1) The term of a county superintendent is 4 years beginning on July 1. A county superintendent continues to serve until a successor is appointed and qualifies.

(2) By February 1 of the year in which a term ends, the county superintendent shall notify the county board whether the superintendent is a candidate for reappointment.

(3) In the year in which a term begins, the county board shall appoint a county superintendent between February 1 and June 30. However, if the county board decides to reappoint the incumbent superintendent, the county board shall take final action at a public meeting no later than March 1 of that year.

(4) If a county board is unable to appoint a county superintendent by July 1 of a year in which a term begins, the provisions of subsection (d) of this section apply.

(c) (1) An individual may not be appointed as county superintendent unless he:

(i) Is eligible to be issued a certificate for the office by the State Superintendent;

(ii) Has graduated from an accredited college or university; and

(iii) Has completed 2 years of graduate work at an accredited college or university, including public school administration, supervision, and methods of teaching.

(2) The appointment of a county superintendent is not valid unless approved in writing by the State Superintendent.

(3) If the State Superintendent disapproves an appointment, he shall give his reasons for disapproval in writing to the county board.

(d) If a vacancy occurs in the office of county superintendent, the county board shall appoint an interim county superintendent who serves until July 1 after his appointment.

(e) (1) The State Superintendent may remove a county superintendent for:

(i) Immorality;

(ii) Misconduct in office;

(iii) Insubordination;

(iv) Incompetency; or

(v) Willful neglect of duty.

(2) Before removing a county superintendent, the State Superintendent shall send the county superintendent a copy of the charges against the county superintendent and give the county superintendent an opportunity within 10 days to request a hearing.

(3) If the county superintendent requests a hearing within the 10–day period:

(i) The State Superintendent promptly shall hold a hearing, but a hearing may not be set within 10 days after the State Superintendent sends the county superintendent a notice of the hearing; and

(ii) The county superintendent shall have an opportunity to be heard publicly before the State Superintendent in the county superintendent's own defense, in person or by counsel.

(f) On notification of pending criminal charges against a county superintendent as provided under § 4–206 of this subtitle, the county board may suspend the county superintendent with pay until the final disposition of the criminal charges.

4–201.1.

(A) THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(B) SUBJECT TO THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION, THE CHIEF EXECUTIVE OFFICER OF THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM SHALL BE:

(1) SELECTED BY THE COUNTY EXECUTIVE IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION; AND

(2) APPOINTED BY THE COUNTY BOARD AFTER AGREEMENT ON CONTRACT TERMS NEGOTIATED BY THE CHAIR OF THE COUNTY BOARD.

(C) (1) THE COUNTY EXECUTIVE SHALL SELECT A CHIEF EXECUTIVE OFFICER FROM A LIST OF THREE NOMINEES RECOMMENDED BY A SEARCH COMMITTEE THAT IS COMPRISED OF:

(I) ONE MEMBER OF THE STATE BOARD, APPOINTED BY THE STATE SUPERINTENDENT; AND

(II) TWO RESIDENTS OF PRINCE GEORGE'S COUNTY, APPOINTED BY THE GOVERNOR.

(2) THE SEARCH COMMITTEE SHALL BE CHAIRED BY A MEMBER SELECTED BY THE STATE SUPERINTENDENT.

(D) (1) THE TERM OF THE CHIEF EXECUTIVE OFFICER IS 4 YEARS BEGINNING ON JULY 1.

(2) THE CHIEF EXECUTIVE OFFICER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) BY FEBRUARY 1 OF THE YEAR IN WHICH A TERM ENDS, THE CHIEF EXECUTIVE OFFICER SHALL NOTIFY THE COUNTY EXECUTIVE AND THE COUNTY BOARD IF THE CHIEF EXECUTIVE OFFICER IS A CANDIDATE FOR REAPPOINTMENT.

(4) (I) IN THE YEAR A TERM BEGINS, THE COUNTY EXECUTIVE SHALL SELECT A CHIEF EXECUTIVE OFFICER BETWEEN FEBRUARY 1 AND JUNE 1, AND THE COUNTY BOARD SHALL COMPLETE THE APPOINTMENT ON OR BEFORE JUNE 30.

(II) IF THE COUNTY EXECUTIVE DECIDES TO SELECT THE INCUMBENT CHIEF EXECUTIVE OFFICER, THE COUNTY BOARD SHALL COMPLETE THE REAPPOINTMENT NO LATER THAN MARCH 1 OF THAT YEAR.

(5) IF THE COUNTY BOARD IS UNABLE TO APPOINT A CHIEF EXECUTIVE OFFICER BY JULY 1 OF THE YEAR A TERM BEGINS, THE PROVISIONS OF SUBSECTION (F) OF THIS SECTION APPLY.

(E) (1) AN INDIVIDUAL MAY NOT BE APPOINTED AS CHIEF EXECUTIVE OFFICER UNLESS THE INDIVIDUAL:

(I) IS ELIGIBLE TO BE ISSUED A CERTIFICATE FOR THE OFFICE BY THE STATE SUPERINTENDENT;

(II) HAS GRADUATED FROM AN ACCREDITED COLLEGE OR UNIVERSITY; AND

(III) HAS COMPLETED 2 YEARS OF GRADUATE WORK AT AN ACCREDITED COLLEGE OR UNIVERSITY, INCLUDING PUBLIC SCHOOL ADMINISTRATION, SUPERVISION, AND METHODS OF TEACHING.

(2) THE APPOINTMENT OF THE CHIEF EXECUTIVE OFFICER IS NOT VALID UNLESS APPROVED IN WRITING BY THE STATE SUPERINTENDENT.

(3) IF THE STATE SUPERINTENDENT DISAPPROVES AN APPOINTMENT, THE STATE SUPERINTENDENT SHALL GIVE THE REASONS FOR DISAPPROVAL IN WRITING TO THE COUNTY BOARD AND THE COUNTY EXECUTIVE.

(F) IF A VACANCY OCCURS IN THE OFFICE OF CHIEF EXECUTIVE OFFICER, THE COUNTY EXECUTIVE SHALL SELECT AND THE COUNTY BOARD SHALL APPOINT AN INTERIM CHIEF EXECUTIVE OFFICER TO SERVE UNTIL JULY 1 AFTER THE APPOINTMENT.

(G) ON NOTIFICATION OF PENDING CRIMINAL CHARGES AGAINST THE CHIEF EXECUTIVE OFFICER AS PROVIDED UNDER § 4–206 OF THIS SUBTITLE, THE COUNTY BOARD MAY SUSPEND THE CHIEF EXECUTIVE OFFICER WITH PAY UNTIL THE FINAL DISPOSITION OF THE CRIMINAL CHARGES.

4–202.

(a) ***(1) [****Each****] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH*** *county superintendent is entitled to the compensation set by the county board.*

(2) IN PRINCE GEORGE'S COUNTY, THE CHIEF EXECUTIVE OFFICER IS ENTITLED TO THE COMPENSATION SET BY THE CONTRACT WITH THE COUNTY BOARD.

(b) (1) The salary of a county superintendent may not be decreased during his term of office.

(2) Each county superintendent shall devote full time to public school business.

4–204.

(a) ***(1) [****Acting****] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ACTING*** *under the rules and regulations of the county board, the county superintendent is responsible for the administration of his office.*

(2) IN PRINCE GEORGE'S COUNTY, THE CHIEF EXECUTIVE OFFICER IS RESPONSIBLE FOR THE ADMINISTRATION OF THE OFFICE OF THE CHIEF EXECUTIVE OFFICER, INCLUDING HIRING AND SETTING THE SALARIES OF THE EXECUTIVE STAFF.

(b) As the executive officer of the county board, the county superintendent shall see that the following are carried out:

(1) The laws relating to the schools;

(2) The applicable enacted and published bylaws of the State Board;

(3) The policies of the State Board;

(4) The rules and regulations of the county board; and

(5) The policies of the county board.

4–206.

(a) ***(1)*** *[A]* ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A*** *county superintendent shall immediately notify the county board in writing of any criminal charges that are punishable by a period of incarceration brought against the county superintendent.*

(2) IN PRINCE GEORGE'S COUNTY, THE CHIEF EXECUTIVE OFFICER SHALL IMMEDIATELY NOTIFY THE COUNTY EXECUTIVE AND THE COUNTY BOARD IN WRITING OF ANY CRIMINAL CHARGES THAT ARE PUNISHABLE BY A PERIOD OF INCARCERATION BROUGHT AGAINST THE CHIEF EXECUTIVE OFFICER.

(b) The notification required under subsection (a) of this section shall include a copy of all charging documents served on the county superintendent or the county superintendent's counsel.

(c) Any county superintendent who violates subsections (a) and (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100 and revocation of any professional certification issued by the Department.

SUBTITLE 4. PRINCE GEORGE'S COUNTY.

4–401.

THE PURPOSE OF THE COUNTY BOARD IS TO:

(1) RAISE THE LEVEL OF ACADEMIC ACHIEVEMENT OF THE STUDENTS IN THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM; AND

(2) RAISE THE LEVEL OF ENGAGEMENT OF THE PARENTS, STUDENTS, AND COMMUNITY AS A WHOLE.

4–402.

(A) IN ADDITION TO THE OTHER POWERS GRANTED TO, AND DUTIES IMPOSED ON, A COUNTY SUPERINTENDENT UNDER THIS ARTICLE, THE CHIEF EXECUTIVE OFFICER HAS THE RESPONSIBILITIES AND POWERS SET FORTH IN THIS SECTION.

(B) THE CHIEF EXECUTIVE OFFICER SHALL BE RESPONSIBLE FOR:

(1) THE OVERALL ADMINISTRATION OF THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM;

(2) SUBJECT TO THE PROVISIONS OF TITLE 6 OF THIS ARTICLE, AND AFTER A BUDGET IS SUBMITTED BY THE COUNTY BOARD AND APPROVED BY THE COUNTY COUNCIL AT THE BEGINNING OF EACH FISCAL YEAR, THE DAY–TO–DAY MANAGEMENT AND OVERSIGHT OF THE FISCAL AFFAIRS OF THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM, INCLUDING THE MANAGEMENT OF ACTIVITIES RELATED TO:

(I) ADMINISTRATION;

(II) MID–LEVEL ADMINISTRATION;

(III) INSTRUCTIONAL SALARIES;

(IV) TEXTBOOKS AND OTHER CLASSROOM INSTRUCTIONAL SUPPLIES;

(V) INSTRUCTIONAL COSTS;

(VI) SPECIAL EDUCATION;

(VII) STUDENT PERSONNEL SERVICES;

(VIII) HEALTH SERVICES;

(IX) STUDENT TRANSPORTATION;

(X) OPERATION OF PLANTS AND EQUIPMENT;

(XI) PLANT MAINTENANCE;

(XII) FIXED CHARGES;

(XIII) FOOD SERVICES; AND

(XIV) CAPITAL PLANNING AND EXPENDITURES; AND

(3) THE DEVELOPMENT AND IMPLEMENTATION OF THE CURRICULUM TAUGHT AND THE INSTRUCTION PROVIDED IN THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM.

(C) THE CHIEF EXECUTIVE OFFICER:

(1) SHALL HIRE AND SET THE SALARIES OF A CHIEF OPERATING OFFICER, A CHIEF FINANCIAL OFFICER, A CHIEF ACADEMIC OFFICER, A CHIEF OF STAFF, A BOARD LIAISON, AND ANY OTHER NECESSARY EXECUTIVE STAFF IN THE OFFICE OF THE CHIEF EXECUTIVE OFFICER; AND

(2) MAY DELEGATE THE RESPONSIBILITIES ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION TO APPROPRIATELY QUALIFIED INDIVIDUALS AS DETERMINED AND DEEMED NECESSARY BY THE CHIEF EXECUTIVE OFFICER.

(D) (1) THE CHIEF EXECUTIVE OFFICER SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING THAT RELATES TO THE PROVISION OF POLICY ANALYSIS AND ADVICE TO THE COUNTY BOARD WITH THE FOLLOWING INSTITUTIONS OF HIGHER EDUCATION:

(I) THE UNIVERSITY OF MARYLAND, COLLEGE PARK;

(II) THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE;

(III) BOWIE STATE UNIVERSITY; AND

(IV) PRINCE GEORGE'S COMMUNITY COLLEGE.

(2) THE CHIEF EXECUTIVE OFFICER MAY INCLUDE ADDITIONAL INSTITUTIONS OF HIGHER EDUCATION IN THE MEMORANDUM OF UNDERSTANDING REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

4–403.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COUNTY BOARD MAY NOT IMPLEMENT A POLICY OR TAKE ANY ACTION THAT CONTRADICTS THE DAY–TO–DAY MANAGEMENT AND OVERSIGHT OF THE FISCAL AFFAIRS OF THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM BY THE CHIEF EXECUTIVE OFFICER UNDER THIS SUBTITLE.

(B) EXCEPT FOR PERSONNEL MATTERS AND APPEALS OF PERSONNEL MATTERS IN ACCORDANCE WITH §§ 4–205(C)(2) AND (3) OF THIS TITLE AND 6–202 OF THIS ARTICLE, THE COUNTY BOARD SHALL REQUIRE A TWO–THIRDS

VOTE OF ALL VOTING MEMBERS OF THE COUNTY BOARD TO TAKE AN ACTION THAT IS CONTRARY TO AN ACTION OF THE CHIEF EXECUTIVE OFFICER.

6–201.

(a) ***(1)*** *[The]* ***SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE*** *county board shall employ individuals in the positions that the county board considers necessary for the operation of the public schools in the county.*

(2) IN PRINCE GEORGE'S COUNTY, THE CHIEF EXECUTIVE OFFICER OF THE PRINCE GEORGE'S COUNTY PUBLIC SCHOOL SYSTEM SHALL HIRE AND SET THE SALARIES OF A CHIEF OPERATING OFFICER, A CHIEF FINANCIAL OFFICER, A CHIEF ACADEMIC OFFICER, A CHIEF OF STAFF, A BOARD LIAISON, AND ANY OTHER NECESSARY EXECUTIVE STAFF IN THE OFFICE OF THE CHIEF EXECUTIVE OFFICER.

(b) (1) ***[The] EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE*** *county superintendent shall nominate for appointment by the county board:*

(i) All professional assistants of the office of county superintendent; and

(ii) All principals, teachers, and other certificated personnel.

(2) As to these personnel, the county superintendent shall:

(i) Assign them to their positions in the schools;

(ii) Transfer them as the needs of the schools require;

(iii) Recommend them for promotion; and

(iv) Suspend them for cause and recommend them for dismissal in accordance with § 6–202 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The County Executive of Prince George's County and the Prince George's County Council shall appoint the new members and the chair and vice chair of the Prince George's County Board of Education in accordance with §§ 3–1002 and 3–1004 of the Education Article, as enacted by Section 1 of this Act, as soon as practicable and no later than June 1, 2013.

(b) To fill the current vacancy in the office of the Prince George's County Superintendent of Schools:

(1) a search committee shall be appointed in accordance with § 4–201.1(c) of the Education Article, as enacted by Section 1 of this Act, as soon as practicable and no later than June 1, 2013;

(2) in developing a list of three nominees recommended for the new Chief Executive Officer of the Prince George's County public school system, the search committee shall review any data regarding potential candidates that has been collected and provided by a search firm since September 2012;

(3) the chair of the Prince George's County Board of Education, appointed by the County Executive under § 3–1004 of the Education Article, as enacted by Section 1 of this Act, shall negotiate the terms of the contract of the new Chief Executive Officer, including a requirement that the Chief Executive Officer attend the meetings of the County Executive's Cabinet; and

(4) notwithstanding the dates set out in § 4–201.1(d) and (f) of the Education Article as enacted by Section 1 of this Act, the County Executive may select and the Prince George's County Board of Education may appoint the new Chief Executive Officer after July 1, 2013, to a 4–year term ending June 30, 2017.

SECTION 3. AND BE IT FURTHER ENACTED, That the Chief Executive Officer of the Prince George's County public school system and the Prince George's County Board of Education shall hire a consultant to conduct a school utilization study and, on or before December 1, 2014, make recommendations regarding the geographical attendance areas for, or consolidation of, schools to the Chief Executive Officer, the county board, the County Executive of Prince George's County, and the Prince George's County Council.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) On or before December 31, 2013, the County Executive of Prince George's County, the Chief Executive Officer of the Prince George's County public school system, and the Prince George's County Board of Education shall submit an interim report on the implementation of this Act, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee, the House Committee on Ways and Means, the Prince George's County Senators, and the Prince George's County Delegation.

(b) On or before December 31, 2017, the County Executive, the Chief Executive Officer, and the Prince George's County Board of Education shall submit a final report on academic progress and improvement in the management of the Prince George's County public school system, and recommendations concerning the continuation, modification, or termination of the governance system established by this Act for the public school system, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee, the House

Committee on Ways and Means, the Prince George's County Senators, and the Prince George's County Delegation.

(c) During the 2018 regular legislative session, the General Assembly shall deliberate and determine whether the provisions of this Act shall be terminated and of no further force and effect. If the General Assembly does not take any action to terminate this Act, the provisions of this Act shall continue to be in full force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 9, 2013.

HB 1107 (Chapter 147) did not receive the requisite number of votes required for an emergency bill. It did, however, receive sufficient votes to pass. It will, therefore, take effect June 1, 2013.

Chapter 148

(House Bill 1183)

AN ACT concerning

Public Health – Retail Establishments – Use of Toilet Facilities by Customers

FOR the purpose of altering the circumstances under which a retail establishment that has a toilet facility for its employees is required to allow certain customers to use the facility; requiring the Department of Health and Mental Hygiene to create a certain identification card; making conforming changes; altering a certain definition; adding a certain definition; and generally relating to the use of employee toilet facilities by customers of retail establishments.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–635
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 24–209
Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

5–635.

(a) In this section, "customer" means an individual who is lawfully on the premises of a retail establishment.

(b) A retail establishment and any employee of a retail establishment are not civilly liable for any act or omission in allowing a customer, including a customer **WHO HAS AN ELIGIBLE MEDICAL CONDITION,** as defined in § 24–209 of the Health – General Article, to use a toilet facility that is not a public toilet facility, if the act or omission:

(1) Is not willful or grossly negligent;

(2) Occurs in an area of the retail establishment that is not accessible to the public; and

(3) Results in an injury to or death of the customer or any individual other than an employee accompanying the customer.

(c) Notwithstanding any provision of this section, an employee toilet facility is not to be considered a public restroom.

Article – Health – General

24–209.

(a) **(1)** In this section**[**, "customer"**]** **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "CUSTOMER" means an individual who**[**:**]** **IS LAWFULLY ON THE PREMISES OF A RETAIL ESTABLISHMENT.**

(3) "ELIGIBLE MEDICAL CONDITION" MEANS:

[(1)**]** **(I)** **[**Suffers from**]** Crohn's disease, ulcerative colitis or any other inflammatory bowel disease, or any other medical condition that requires immediate access to a toilet facility; or

[(2)**]** **(II)** **[**Utilizes**]** **A CONDITION THAT REQUIRES THE USE OF** an ostomy device.

(b) At the request of a customer **DURING NORMAL BUSINESS HOURS**, and where a public restroom is not readily available, each retail establishment **[**with 20 or more employees**]** that has a toilet facility for its employees shall allow the customer to use the facility **IF:**

(1) THREE OR MORE EMPLOYEES OF THE RETAIL ESTABLISHMENT ARE WORKING AT THE TIME THE CUSTOMER REQUESTS USE OF THE FACILITY; AND

(2) THE CUSTOMER SUFFERS FROM AN ELIGIBLE CONDITION THAT IS DOCUMENTED WITH~~:~~

~~(I)~~ **~~A~~** **A SIGNED STATEMENT BY THE CUSTOMER'S HEALTH CARE PROVIDER ON AN IDENTIFICATION CARD THAT HAS BEEN PREPARED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION~~~~; OR~~**

~~(II) AN IDENTIFICATION CARD THAT IS ISSUED BY A NONPROFIT ORGANIZATION THAT SERVES INDIVIDUALS WITH AN ELIGIBLE MEDICAL CONDITION~~.

(C) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL DEVELOP A STANDARD ~~ELECTRONIC~~ IDENTIFICATION CARD THAT ~~MAY BE~~ IS AVAILABLE ON THE DEPARTMENT'S WEB SITE TO BE PRINTED AND SIGNED BY A HEALTH CARE PROVIDER AS EVIDENCE OF THE EXISTENCE OF AN ELIGIBLE MEDICAL CONDITION.

[(c)**]** **(D)** Notwithstanding any provision of this section, an employee toilet facility is not to be considered a public restroom.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 149

(House Bill 1240)

AN ACT concerning

Howard County – Alcoholic Beverages – Continuing Care Retirement Community License

Ho. Co. 10–13

FOR the purpose of establishing in Howard County a Class C (Continuing Care Retirement Community) beer, wine and liquor license; establishing qualifications for a licensee; authorizing a licensee to keep for sale and sell at retail to a resident or a guest of the community beer, wine, and liquor for consumption on the premises; providing for an annual license fee; and generally relating to alcoholic beverages in Howard County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–301(o)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–301(o)(6)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

6–301.

(o) (1) This subsection applies only in Howard County.

(6) (I) THERE IS A CLASS C (CONTINUING CARE RETIREMENT COMMUNITY) BEER, WINE AND LIQUOR LICENSE.

(II) THE LICENSE MAY BE ISSUED TO A CONTINUING CARE RETIREMENT COMMUNITY THAT:

1. IS COMPOSED OF RESIDENTS OF A CONTINUING CARE RETIREMENT COMMUNITY THAT HAS OBTAINED A CERTIFICATE OF REGISTRATION FROM THE STATE DEPARTMENT OF AGING UNDER TITLE 10, SUBTITLE 4 OF THE HUMAN SERVICES ARTICLE;

2. OPERATES SOLELY FOR THE USE OF ITS RESIDENTS AND GUESTS OF THE COMMUNITY; AND

3. IS NOT DIRECTLY OR INDIRECTLY OWNED OR OPERATED AS A PUBLIC BUSINESS.

(III) A LICENSEE MAY KEEP FOR SALE AND SELL AT RETAIL TO A RESIDENT OR A GUEST OF THE COMMUNITY BEER, WINE, AND LIQUOR FOR CONSUMPTION ON THE LICENSED PREMISES.

(IV) THE ANNUAL LICENSE FEE IS $250.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 150

(House Bill 1315)

AN ACT concerning

Economic Development Programs – Data Collection and Tracking (Maryland Jobs Development Act)

FOR the purpose of requiring the Department of Business and Economic Development ~~to work with all units of the State that administer economic development programs~~ to compile ~~comprehensive~~ certain data on ~~all~~ certain economic development programs administered ~~in the State~~ by the Department; requiring the Department to submit a certain report on ~~all~~ certain economic development programs ~~administered in the State~~ on or before a certain date each year; requiring the report to contain certain data in certain formats; requiring the Department to ~~adopt certain regulations;~~ implement a certain process to assist certain economic development program recipients; defining a certain term; and generally relating to data collection and tracking of economic development programs in the State.

BY adding to
Article – Economic Development
Section 2–123
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Economic Development

2–123.

(A) IN THIS SECTION, "ECONOMIC DEVELOPMENT PROGRAM" MEANS:

(1) EACH OF THE ECONOMIC DEVELOPMENT AND FINANCIAL ASSISTANCE PROGRAMS ESTABLISHED UNDER TITLE 5 OF THIS ARTICLE; AND

(2) EACH OF THE TAX CREDIT PROGRAMS ADMINISTERED BY THE DEPARTMENT, INCLUDING:

(I) THE FILM PRODUCTION ACTIVITY TAX CREDIT;

(II) THE JOB CREATION TAX CREDIT;

(III) THE ONE MARYLAND ECONOMIC DEVELOPMENT TAX CREDIT;

(IV) THE INVEST MARYLAND PROGRAM;

(V) THE BIOTECHNOLOGY INVESTMENT INCENTIVE TAX CREDIT; AND

(VI) THE RESEARCH AND DEVELOPMENT TAX CREDIT.

~~(A)~~ (B) THE DEPARTMENT SHALL ~~WORK WITH ALL UNITS OF THE STATE THAT ADMINISTER ECONOMIC DEVELOPMENT PROGRAMS TO COMPILE COMPREHENSIVE DATA ON ALL~~ COMPILE DATA IN ACCORDANCE WITH THIS SECTION ON THE ECONOMIC DEVELOPMENT PROGRAMS ADMINISTERED ~~IN THE STATE~~ BY THE DEPARTMENT.

~~(B)~~ (C) ON OR BEFORE ~~OCTOBER 1~~ DECEMBER 31, 2013, AND EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT ON ~~ALL~~ THE ECONOMIC DEVELOPMENT PROGRAMS THAT WERE ADMINISTERED ~~IN THE STATE~~ BY THE DEPARTMENT DURING THE PREVIOUS FISCAL YEAR TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

~~(C)~~ (D) (1) THE REPORT REQUIRED UNDER THIS SECTION SHALL INCLUDE THE FOLLOWING DATA, IF APPLICABLE, ON ~~ALL~~ THE ECONOMIC

DEVELOPMENT PROGRAMS ADMINISTERED BY ~~ALL UNITS OF THE STATE~~ THE DEPARTMENT:

(I) THE NUMBER OF JOBS CREATED;

(II) THE NUMBER OF JOBS RETAINED;

(III) THE ESTIMATED AMOUNT OF STATE REVENUE GENERATED; AND

(IV) ANY ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT THROUGH REGULATIONS.

(2) THE REPORT REQUIRED UNDER THIS SECTION SHALL INCLUDE DATA IN THE AGGREGATE AND DISAGGREGATED BY:

~~(I) EACH UNIT OF THE STATE;~~

~~(II)~~ (I) EACH ECONOMIC DEVELOPMENT PROGRAM; AND

~~(III)~~ (II) EACH RECIPIENT OF ASSISTANCE FROM AN ECONOMIC DEVELOPMENT PROGRAM.

~~(D) IN CONSULTATION WITH THE OTHER UNITS OF THE STATE THAT ADMINISTER ECONOMIC DEVELOPMENT PROGRAMS, THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:~~

~~(1) CREATE A PROCESS FOR DETERMINING WHETHER A RECIPIENT OF ASSISTANCE FROM AN ECONOMIC DEVELOPMENT PROGRAM IS MEETING THE REQUIREMENTS OF THE ECONOMIC DEVELOPMENT PROGRAM; AND~~

~~(2)~~ (E) ~~IF~~ IF A RECIPIENT OF ASSISTANCE FROM AN ECONOMIC DEVELOPMENT PROGRAM IS NOT MEETING THE REQUIREMENTS OF THE ECONOMIC DEVELOPMENT PROGRAM, ~~CREATE~~ THE DEPARTMENT SHALL IMPLEMENT A PROCESS TO ASSIST THE RECIPIENT IN MEETING THE PROGRAM REQUIREMENTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 151

(House Bill 1327)

AN ACT concerning

Agricultural Commodity – Assessment – Collection

FOR the purpose of repealing the requirement that a certain assessment on an agricultural commodity be collected annually; repealing the requirement that a certain assessment be deducted by a purchaser on and after the date specified in a certain notification letter; requiring a purchaser to remit an assessment to a certified agency as directed by the Secretary of Agriculture; authorizing a certified agency to initiate judicial proceedings under certain circumstances; authorizing a certain certified agency to inspect certain books and records; making certain clarifying and conforming changes; making stylistic changes; and generally relating to the collection of an assessment on an agricultural commodity.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 10–108 and 10–111
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Agriculture

10–108.

(a) (1) A proposed assessment on an agricultural commodity passes if a majority of those persons qualifying as voters and voting in the area in which the referendum is conducted vote in favor of the levying and collection of the proposed assessment on the agricultural commodity.

(2) If a proposed assessment passes, the agency conducting the referendum shall announce the assessment.

(b) The assessment shall be collected **[**pursuant**]:**

(1) ACCORDING to the method and rules and regulations adopted by the certified agency conducting the referendum**[.]; AND**

(2) [It shall be collected annually for**] FOR** the number of years set forth in the call for the referendum.

10–111.

(a) As an alternate method for the collection of assessments [provided for in] **UNDER** § 10–110 of this subtitle, and upon the request of [the] **A** certified agency, the Secretary shall notify, by registered letter, [every] **ANY** person engaged in the business of purchasing any agricultural commodity in the State[,] that [on and after the date specified in the letter,] the assessments shall be deducted by the purchaser, or [his] **THE PURCHASER'S** agent or representative, from the purchase price of the agricultural commodity.

(b) **(1)** [By June 1 of each year following the deduction, the] **THE** deducted assessment shall be remitted by the purchaser [to the Secretary who shall pay the amount of the assessments] to the certified agency **AS DIRECTED BY THE SECRETARY**.

(2) A CERTIFIED AGENCY MAY INITIATE JUDICIAL PROCEEDINGS IN THE CIRCUIT COURT OF THE COUNTY WHERE THE AGRICULTURAL COMMODITY WAS PURCHASED IF A PURCHASER FAILS TO REMIT THE DEDUCTED ASSESSMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(c) The books and records of [every] **A** purchaser of any agricultural commodity shall be open for inspection by the Secretary **OR THE CERTIFIED AGENCY THAT CONDUCTED THE REFERENDUM FOR THE AGRICULTURAL COMMODITY** at any time during regular business hours.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 152

(House Bill 1349)

AN ACT concerning

Prince George's County Sheriff – ~~Salary Increase~~ Compensation and Salaries

PG 319–13

FOR the purpose of ~~increasing the annual salary of the Sheriff of Prince George's County to a certain amount over a certain time period~~ repealing the method of

determining the annual salary of the Sheriff of Prince George's County beginning with a certain calendar year; providing that beginning with a certain calendar year, the annual salary of the Sheriff shall equal the salary of a circuit court judge; providing that this Act does not apply to the salary or compensation of the incumbent Sheriff during a certain term of office; and generally relating to the salary of the Sheriff of Prince George's County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(r)(1)(i)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

2–309.

(r) (1) The Sheriff of Prince George's County shall:

(i) Receive an annual salary of:

[1. $101,000 for calendar year 2006;

2. $118,000 for calendar year 2007;

3. $122,720 for calendar year 2008;

4. $127,629 for calendar year 2009; and

5. $132,734 for calendar year 2010**]**

~~**1.**~~ **$132,734 FOR CALENDAR YEAR ~~2013;~~ 2013 AND, FOR CALENDAR YEAR 2014 AND EACH SUBSEQUENT CALENDAR YEAR, THE SHERIFF'S ANNUAL SALARY SHALL EQUAL THE SALARY OF A CIRCUIT COURT JUDGE;**

~~**2. $154,000 FOR CALENDAR YEAR 2014;**~~

~~**3. $159,000 FOR CALENDAR YEAR 2015;**~~

~~**4. $164,720 FOR CALENDAR YEAR 2016;**~~

~~**5. $169,629 FOR CALENDAR YEAR 2017; AND**~~

~~6. $174,734 FOR CALENDAR YEAR 2018 and for each subsequent calendar year;~~

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the Sheriff of Prince George's County during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Sheriff of Prince George's County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 153

(House Bill 1407)

AN ACT concerning

Howard County – Orphans' Court Judges – Salary

Ho. Co. 12–13

FOR the purpose of altering the salary of each judge of the Orphans' Court for Howard County and the annual salary of the Chief Judge of the Orphans' Court for Howard County; and providing that this Act does not apply to the salary or compensation of a judge or the Chief Judge of the Orphans' Court for Howard County during a certain term of office.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–108(o)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Estates and Trusts

2–108.

(o) (1) Each judge of the Court for Howard County shall receive annual compensation of **[**$8,000**] $10,000**, to be paid monthly.

(2) The annual salary of the Chief Judge is **[**$9,500**] $11,500**, to be paid monthly.

(3) Each judge shall also receive an expense allowance, in addition, up to $50 per month, for personal expenses incidental to the judge's duties, to be paid by the Treasurer of Howard County each month on presentation of an itemized voucher.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of a judge or the Chief Judge of the Orphans' Court for Howard County during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of a judge or the Chief Judge of the Orphans' Court for Howard County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 154

(Senate Bill 273)

AN ACT concerning

Veterans Full Employment Act of 2013

FOR the purpose of requiring certain licensing units and boards to give credit to certain former service members for relevant military training, education, and experience in connection with the issuance of certain occupational and professional licenses, certificates, and registrations; repealing and recodifying certain provisions of law regarding the renewal of certain occupational or professional licenses and the completion of continuing education or continuing competency requirements for certain members of an armed force deployed outside the State; requiring certain licensing units and boards to issue a temporary expedited license, certification, or registration to certain individuals under certain circumstances; authorizing certain licensing units and boards to issue a temporary license under certain circumstances; ~~authorizing certain health occupations boards to apply to the Secretary of Health and Mental Hygiene for consideration of an alternate process of expedited licensing, certification, or registration under certain circumstances~~ requiring certain

health occupations boards to develop certain procedures by which an applicant for a license, certificate, or registration can provide certain notice to the board; requiring each health occupations board to expedite the licensing, certification, or registration process for certain applicants and issue a license, certificate, or registration within a certain number of days under certain circumstances; requiring each health occupations board to assign to certain applicants a certain advisor; requiring each health occupations board to provide certain assistance to certain persons under certain circumstances; requiring the State Superintendent of Schools to expedite educator certification under certain circumstances; authorizing the State Superintendent of Schools to issue a temporary educator certificate under certain circumstances; requiring certain licensing units and boards and the State Department of Education to publish certain information on a certain Web site; authorizing certain licensing units and boards, the Commissioner of Financial Regulation, and the State Board of Education to adopt certain regulations; requiring the Maryland Higher Education Commission to develop and adopt certain guidelines regarding the awarding of academic credit for military training, coursework, and education; requiring public institutions of higher education to develop and implement certain policies in accordance with the guidelines adopted by the Commission; requiring that certain reports on the implementation of this Act be submitted to the Governor and the General Assembly on or before ~~a~~ certain ~~date~~ dates; and generally relating to occupational and professional licensing requirements and the crediting, for certain purposes, of certain training, experience, and education of service members, veterans, and military spouses.

BY repealing
Article – Business Regulation
Section 2–111
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Business Regulation
Section 2.5–101 through 2.5–108 to be under the new title "Title 2.5. Service Members, Veterans, and Military Spouses – Licensing"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 6–101.1, 13–516(b–1), and 15–113
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 10–101(c) and 13–501(f)

Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Financial Institutions
Section 11–612.2
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Health Occupations
Section 1–701 through 1–706 to be under the new subtitle "Subtitle 7. Service Members, Veterans, and Military Spouses – Licensing"
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 2–111 of Article – Business Regulation of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Business Regulation

TITLE 2.5. SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES – LICENSING.

2.5–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "LICENSE" MEANS ANY GRANT OF AUTHORITY TO AN INDIVIDUAL TO PRACTICE AN OCCUPATION OR PROFESSION.

(2) "LICENSE" INCLUDES A CERTIFICATE, PERMIT, OR REGISTRATION.

(C) <u>(1)</u> "MILITARY SPOUSE" MEANS THE SPOUSE OF A SERVICE MEMBER OR VETERAN.

<u>(2) "MILITARY SPOUSE" INCLUDES A SURVIVING SPOUSE OF:</u>

<u>(I) A VETERAN; OR</u>

(II) A SERVICE MEMBER WHO DIED WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR A LICENSE IS SUBMITTED.

(D) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(1) THE ARMED FORCES OF THE UNITED STATES;

(2) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(3) THE NATIONAL GUARD OF ANY STATE.

(E) "UNIT" MEANS A UNIT IN THE DEPARTMENT THAT IS AUTHORIZED TO ISSUE A LICENSE.

(F) (1) "VETERAN" MEANS A FORMER SERVICE MEMBER WHO WAS ~~HONORABLY DISCHARGED FROM ACTIVE DUTY~~ DISCHARGED FROM ACTIVE DUTY UNDER CIRCUMSTANCES OTHER THAN DISHONORABLE WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR A LICENSE IS SUBMITTED.

(2) "VETERAN" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS COMPLETED ACTIVE DUTY AND HAS BEEN DISCHARGED FOR MORE THAN 1 YEAR BEFORE THE APPLICATION FOR A LICENSE IS SUBMITTED.

2.5–102.

THIS TITLE DOES NOT APPLY TO LICENSES ISSUED UNDER TITLE 11, SUBTITLE 5 OR SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE.

2.5–103.

A UNIT MAY ALLOW AN INDIVIDUAL LICENSEE WHO IS A MEMBER OF AN ARMED FORCE DEPLOYED OUTSIDE THE STATE TO:

(1) RENEW THE LICENSE AFTER THE EXPIRATION OF THE RENEWAL PERIOD WITHOUT PAYMENT OF A PENALTY OR REINSTATEMENT FEE IF THE LATE RENEWAL IS A DIRECT RESULT OF THE DEPLOYMENT; AND

(2) COMPLETE ANY CONTINUING EDUCATION OR CONTINUING COMPETENCY REQUIREMENTS FOR RENEWAL WITHIN A REASONABLE TIME AFTER RENEWING THE LICENSE.

2.5–104.

(A) IN CALCULATING AN INDIVIDUAL'S YEARS OF PRACTICE IN AN OCCUPATION OR A PROFESSION, EACH UNIT SHALL GIVE CREDIT TO THE INDIVIDUAL FOR ALL RELEVANT EXPERIENCE AS A SERVICE MEMBER.

(B) EACH UNIT SHALL CREDIT ANY TRAINING AND EDUCATION PROVIDED BY THE MILITARY AND COMPLETED BY A SERVICE MEMBER TOWARD ANY TRAINING OR EDUCATION REQUIREMENTS FOR LICENSURE IF THE TRAINING OR EDUCATION IS DETERMINED BY THE UNIT TO BE:

(1) SUBSTANTIALLY EQUIVALENT TO THE TRAINING OR EDUCATION REQUIRED BY THE UNIT; AND

(2) NOT OTHERWISE CONTRARY TO ANY OTHER LICENSING REQUIREMENT.

2.5–105.

(A) EACH UNIT SHALL ISSUE AN EXPEDITED TEMPORARY LICENSE TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) A TEMPORARY LICENSE ISSUED UNDER THIS SECTION IS VALID UNTIL THE EARLIER OF:

(1) 6 MONTHS AFTER THE DATE OF ISSUANCE; OR

(2) THE DATE ON WHICH A LICENSE IS GRANTED OR A NOTICE TO DENY A LICENSE IS ISSUED BY THE UNIT.

(C) AN APPLICATION FOR A TEMPORARY LICENSE SHALL INCLUDE THE FOLLOWING, IN THE FORM AND MANNER REQUIRED BY THE UNIT:

(1) PROOF THAT THE APPLICANT IS A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE;

(2) PROOF THAT THE APPLICANT HOLDS A VALID LICENSE IN GOOD STANDING ISSUED IN ANOTHER STATE;

(3) IF THE APPLICANT IS A SERVICE MEMBER OR VETERAN, PROOF THAT THE APPLICANT IS ASSIGNED TO A DUTY STATION IN THE STATE OR HAS ESTABLISHED LEGAL RESIDENCE IN THE STATE;

(4) IF THE APPLICANT IS A MILITARY SPOUSE, PROOF THAT THE APPLICANT'S SPOUSE IS ASSIGNED TO A DUTY STATION IN THE STATE OR HAS ESTABLISHED LEGAL RESIDENCE IN THE STATE;

(5) IF A CRIMINAL BACKGROUND CHECK IS REQUIRED BY THE UNIT FOR LICENSURE, PROOF OF APPLICATION FOR A CRIMINAL BACKGROUND CHECK;

(6) PROOF THAT THE APPLICANT HAS SUBMITTED THE FULL APPLICATION FOR LICENSURE; AND

(7) PAYMENT OF ANY APPLICATION FEE REQUIRED BY THE UNIT.

(D) BEFORE ISSUING A TEMPORARY LICENSE UNDER THIS SECTION, THE UNIT SHALL DETERMINE THAT THE REQUIREMENTS FOR LICENSURE IN THE OTHER STATE ARE SUBSTANTIALLY EQUIVALENT TO, OR EXCEED THE REQUIREMENTS FOR, LICENSURE IN THIS STATE.

2.5–106.

(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A UNIT MAY ISSUE A TEMPORARY LICENSE TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO HOLDS A VALID LICENSE IN GOOD STANDING ISSUED IN ANOTHER STATE FOR WHICH THE REQUIREMENTS FOR LICENSURE ARE NOT SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS FOR LICENSURE IN THIS STATE.

(B) A TEMPORARY LICENSE ISSUED UNDER THIS SECTION AUTHORIZES THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, FOR A LIMITED PERIOD OF TIME, AS DETERMINED BY THE UNIT, TO PERFORM SERVICES REGULATED BY THE UNIT WHILE THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE COMPLETES ADDITIONAL REQUIREMENTS FOR LICENSURE IN THIS STATE.

(C) A UNIT MAY NOT ISSUE A LICENSE UNDER THIS SECTION IF ISSUANCE OF THE LICENSE WOULD POSE A RISK TO PUBLIC HEALTH, WELFARE, OR SAFETY.

2.5–107.

EACH UNIT SHALL PUBLISH PROMINENTLY ON ITS WEB SITE:

(1) THE PROCESS FOR OBTAINING A TEMPORARY LICENSE UNDER § 2.5–105 OF THIS TITLE AND, IF APPLICABLE, § 2.5–106 OF THIS TITLE; AND

(2) THE PROCESS FOR APPLYING FOR A PERMANENT LICENSE FROM THE UNIT.

2.5–108.

EACH UNIT MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

Article – Education

6–101.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "MILITARY SPOUSE" MEANS THE SPOUSE OF A SERVICE MEMBER OR VETERAN.

(II) "MILITARY SPOUSE" INCLUDES A SURVIVING SPOUSE OF:

1. A VETERAN; OR

2. A SERVICE MEMBER WHO DIED WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR AN EDUCATOR CERTIFICATE IS SUBMITTED.

(3) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(I) THE ARMED FORCES OF THE UNITED STATES;

(II) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(III) THE NATIONAL GUARD OF ANY STATE.

(4) (I) "VETERAN" MEANS A FORMER SERVICE MEMBER WHO WAS ~~HONORABLY DISCHARGED FROM ACTIVE DUTY~~ DISCHARGED FROM ACTIVE DUTY UNDER CIRCUMSTANCES OTHER THAN DISHONORABLE WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR AN EDUCATOR CERTIFICATE IS SUBMITTED.

(II) "VETERAN" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS COMPLETED ACTIVE DUTY AND HAS BEEN DISCHARGED FOR MORE THAN 1

YEAR BEFORE THE APPLICATION FOR AN EDUCATOR CERTIFICATE IS SUBMITTED.

(B) THE STATE SUPERINTENDENT SHALL EXPEDITE EDUCATOR CERTIFICATION FOR A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE.

(C) TO QUALIFY FOR EXPEDITED EDUCATOR CERTIFICATION UNDER THIS SECTION, A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE SHALL:

(1) SUBMIT AN APPLICATION FOR EDUCATOR CERTIFICATION;

(2) HOLD A VALID EDUCATOR LICENSE OR CERTIFICATE IN GOOD STANDING ISSUED IN ANOTHER STATE;

(3) MEET THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION IN COMAR 13A.12.01.04 AND.05; AND

(4) PAY THE APPLICABLE CERTIFICATION FEE.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE STATE SUPERINTENDENT, AT THE REQUEST OF A LOCAL SCHOOL SYSTEM, MAY ISSUE A TEMPORARY EDUCATOR CERTIFICATE TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO HOLDS A VALID EDUCATOR CERTIFICATE OR LICENSE IN GOOD STANDING ISSUED IN ANOTHER STATE BUT WHO DOES NOT MEET THE QUALIFICATIONS FOR EDUCATOR CERTIFICATION IN THIS STATE.

(2) A TEMPORARY EDUCATOR CERTIFICATE ISSUED UNDER THIS SUBSECTION AUTHORIZES THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, FOR A LIMITED PERIOD OF TIME, AS DETERMINED BY THE STATE SUPERINTENDENT, TO BE EMPLOYED AS AN EDUCATOR IN THE STATE WHILE THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE COMPLETES ADDITIONAL REQUIREMENTS FOR CERTIFICATION IN THIS STATE.

(E) THE DEPARTMENT SHALL PUBLISH PROMINENTLY ON ITS WEB SITE THE PROCESS FOR OBTAINING EXPEDITED EDUCATOR CERTIFICATION UNDER THIS SECTION.

(F) THE STATE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

10–101.

(c) "Commission" means the Maryland Higher Education Commission.

13–501.

(f) "EMS Board" means the State Emergency Medical Services Board.

13–516.

(B–1) (1) IN THIS SUBSECTION, "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(I) THE ARMED FORCES OF THE UNITED STATES;

(II) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(III) THE NATIONAL GUARD OF ANY STATE.

(2) (I) IN CALCULATING AN INDIVIDUAL'S YEARS OF EXPERIENCE IN AN OCCUPATION OR PROFESSION, THE EMS BOARD SHALL GIVE CREDIT TO THE INDIVIDUAL FOR ALL RELEVANT EXPERIENCE AS A SERVICE MEMBER.

(II) THE EMS BOARD SHALL CREDIT ANY TRAINING AND EDUCATION PROVIDED BY THE MILITARY AND COMPLETED BY A SERVICE MEMBER TOWARD ANY TRAINING OR EDUCATION REQUIREMENTS FOR LICENSURE OR CERTIFICATION IF THE TRAINING OR EDUCATION IS DETERMINED BY THE EMS BOARD TO BE:

1. SUBSTANTIALLY EQUIVALENT TO THE TRAINING OR EDUCATION REQUIRED BY THE EMS BOARD; AND

2. NOT OTHERWISE CONTRARY TO ANY OTHER LICENSING REQUIREMENT.

15–113.

(A) THE COMMISSION, IN CONSULTATION WITH THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE, SHALL DEVELOP AND ADOPT GUIDELINES ON AWARDING ACADEMIC CREDIT FOR A STUDENT'S MILITARY TRAINING, COURSEWORK, AND EDUCATION.

(B) IN ACCORDANCE WITH THE GUIDELINES DEVELOPED BY THE COMMISSION UNDER SUBSECTION (A) OF THIS SECTION, THE GOVERNING BODY OF EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL

DEVELOP AND IMPLEMENT POLICIES GOVERNING THE AWARDING OF ACADEMIC CREDIT FOR A STUDENT'S MILITARY TRAINING, COURSEWORK, AND EDUCATION.

Article – Financial Institutions

11–612.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "MILITARY SPOUSE" MEANS THE SPOUSE OF A SERVICE MEMBER OR VETERAN.

(II) "MILITARY SPOUSE" INCLUDES A SURVIVING SPOUSE OF:

1. A VETERAN; OR

2. A SERVICE MEMBER WHO DIED WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE LICENSE APPLICATION, RENEWAL, OR CHANGE OF STATUS IS SUBMITTED.

(3) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(I) THE ARMED FORCES OF THE UNITED STATES;

(II) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(III) THE NATIONAL GUARD OF ANY STATE.

(4) (I) "VETERAN" MEANS A FORMER SERVICE MEMBER WHO WAS ~~HONORABLY DISCHARGED FROM ACTIVE DUTY~~ DISCHARGED FROM ACTIVE DUTY UNDER CIRCUMSTANCES OTHER THAN DISHONORABLE WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE LICENSE APPLICATION, RENEWAL, OR CHANGE OF STATUS IS SUBMITTED.

(II) "VETERAN" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS COMPLETED ACTIVE DUTY AND HAS BEEN DISCHARGED FOR MORE THAN 1 YEAR BEFORE THE LICENSE APPLICATION, RENEWAL, OR CHANGE OF STATUS IS SUBMITTED.

(B) TO EXPEDITE THE RENEWAL OR CHANGE OF STATUS OF A LICENSE FOR A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, THE COMMISSIONER:

(1) SHALL WAIVE, AS APPLICABLE, THE STATE CRIMINAL HISTORY RECORDS CHECK; AND

(2) MAY WAIVE OR SUSPEND ANY OTHER LICENSING REQUIREMENTS TO THE EXTENT THAT THE WAIVER OR SUSPENSION DOES NOT RESULT IN THE FAILURE TO MEET THE MINIMUM LICENSING STANDARDS SET FORTH IN 12 U.S.C. CHAPTER 51 AND THE REGULATIONS ADOPTED UNDER IT.

(C) TO EXPEDITE THE ISSUANCE OF A LICENSE TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO HOLDS A VALID MORTGAGE LOAN ORIGINATOR LICENSE IN ANOTHER STATE, THE COMMISSIONER:

(1) SHALL WAIVE THE STATE CRIMINAL HISTORY RECORDS CHECK; AND

(2) MAY WAIVE OR SUSPEND ANY OTHER LICENSING REQUIREMENTS TO THE EXTENT THAT THE WAIVER OR SUSPENSION DOES NOT RESULT IN THE FAILURE TO MEET THE MINIMUM LICENSING STANDARDS SET FORTH IN 12 U.S.C. CHAPTER 51 AND THE REGULATIONS ADOPTED UNDER IT.

(D) THE COMMISSIONER SHALL PUBLISH PROMINENTLY ON THE COMMISSIONER'S WEB SITE, OR HAVE PUBLISHED ON A THIRD–PARTY WEB SITE USED FOR LICENSING MORTGAGE LOAN ORIGINATORS IN THE STATE, THE EXPEDITED PROCESSES FOR THE ISSUANCE, RENEWAL, OR CHANGE OF STATUS OF A LICENSE UNDER THIS SECTION.

(E) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

Article – Health Occupations

SUBTITLE 7. SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES – LICENSING.

1–701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "HEALTH OCCUPATIONS BOARD" MEANS A BOARD AUTHORIZED TO ISSUE A LICENSE, CERTIFICATE, OR REGISTRATION UNDER THIS ARTICLE.

(C) (1) "MILITARY SPOUSE" MEANS THE SPOUSE OF A SERVICE MEMBER OR VETERAN.

(2) "MILITARY SPOUSE" INCLUDES A SURVIVING SPOUSE OF:

(I) A VETERAN; OR

(II) A SERVICE MEMBER WHO DIED WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR A LICENSE, CERTIFICATE, OR REGISTRATION IS SUBMITTED.

(D) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(1) THE ARMED FORCES OF THE UNITED STATES;

(2) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(3) THE NATIONAL GUARD OF ANY STATE.

(E) (1) "VETERAN" MEANS A FORMER SERVICE MEMBER WHO WAS ~~HONORABLY DISCHARGED FROM ACTIVE DUTY~~ DISCHARGED FROM ACTIVE DUTY UNDER CIRCUMSTANCES OTHER THAN DISHONORABLE WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR A LICENSE, CERTIFICATE, OR REGISTRATION IS SUBMITTED.

(2) "VETERAN" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS COMPLETED ACTIVE DUTY AND HAS BEEN DISCHARGED FOR MORE THAN 1 YEAR BEFORE THE APPLICATION FOR A LICENSE, CERTIFICATE, OR REGISTRATION IS SUBMITTED.

1–702.

(A) IN CALCULATING AN INDIVIDUAL'S YEARS OF PRACTICE IN A HEALTH OCCUPATION, EACH HEALTH OCCUPATIONS BOARD SHALL GIVE CREDIT TO THE INDIVIDUAL FOR ALL RELEVANT EXPERIENCE AS A SERVICE MEMBER.

(B) EACH HEALTH OCCUPATIONS BOARD SHALL CREDIT ANY TRAINING AND EDUCATION PROVIDED BY THE MILITARY AND COMPLETED BY A SERVICE MEMBER TOWARD ANY TRAINING OR EDUCATION REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION IF THE TRAINING OR EDUCATION IS DETERMINED BY THE HEALTH OCCUPATIONS BOARD TO BE:

(1) SUBSTANTIALLY EQUIVALENT TO THE TRAINING OR EDUCATION REQUIRED BY THE HEALTH OCCUPATIONS BOARD; AND

(2) NOT OTHERWISE CONTRARY TO ANY OTHER LICENSING REQUIREMENT.

~~**1–703.**~~

~~**(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH HEALTH OCCUPATIONS BOARD SHALL ISSUE AN EXPEDITED TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO MEETS THE REQUIREMENTS OF THIS SUBSECTION.**~~

~~**(2) A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION ISSUED UNDER THIS SUBSECTION IS VALID UNTIL THE EARLIER OF:**~~

~~**(I) 6 MONTHS AFTER THE DATE OF ISSUANCE; OR**~~

~~**(II) THE DATE ON WHICH A LICENSE, CERTIFICATE, OR REGISTRATION IS GRANTED OR A NOTICE TO DENY A LICENSE, CERTIFICATE, OR REGISTRATION IS ISSUED BY THE HEALTH OCCUPATIONS BOARD.**~~

~~**(3) AN APPLICATION FOR A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION TO PRACTICE A HEALTH OCCUPATION UNDER THIS SUBSECTION SHALL INCLUDE THE FOLLOWING, IN THE FORM AND MANNER REQUIRED BY THE HEALTH OCCUPATIONS BOARD:**~~

~~**(I) PROOF THAT THE APPLICANT IS A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE;**~~

~~**(II) PROOF THAT THE APPLICANT HOLDS A VALID LICENSE, CERTIFICATE, OR REGISTRATION IN GOOD STANDING ISSUED IN ANOTHER STATE;**~~

~~**(III) IF THE APPLICANT IS A SERVICE MEMBER OR VETERAN, PROOF THAT THE APPLICANT IS ASSIGNED TO A DUTY STATION IN THE STATE OR HAS ESTABLISHED LEGAL RESIDENCE IN THE STATE;**~~

~~**(IV) IF THE APPLICANT IS A MILITARY SPOUSE, PROOF THAT THE APPLICANT'S SPOUSE IS ASSIGNED TO A DUTY STATION IN THE STATE OR HAS ESTABLISHED LEGAL RESIDENCE IN THE STATE;**~~

~~(V) IF A CRIMINAL BACKGROUND CHECK IS REQUIRED BY THE HEALTH OCCUPATIONS BOARD FOR LICENSURE, CERTIFICATION, OR REGISTRATION, PROOF OF APPLICATION FOR A CRIMINAL BACKGROUND CHECK;~~

~~(VI) PROOF THAT THE APPLICANT HAS SUBMITTED THE FULL APPLICATION FOR LICENSURE, CERTIFICATION, OR REGISTRATION; AND~~

~~(VII) PAYMENT OF ANY APPLICATION FEE REQUIRED BY THE HEALTH OCCUPATIONS BOARD.~~

~~(4) BEFORE ISSUING A TEMPORARY LICENSE UNDER THIS SUBSECTION, THE HEALTH OCCUPATIONS BOARD SHALL DETERMINE THAT THE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION IN THE OTHER STATE ARE SUBSTANTIALLY EQUIVALENT TO, OR EXCEED THE REQUIREMENTS FOR, LICENSURE, CERTIFICATION, OR REGISTRATION IN THIS STATE.~~

~~(B) (1) A HEALTH OCCUPATIONS BOARD MAY APPLY TO THE SECRETARY FOR CONSIDERATION OF A PROCESS FOR LICENSURE, CERTIFICATION, OR REGISTRATION THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, BUT THAT ALLOWS SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES TO OBTAIN A LICENSE, CERTIFICATE, OR REGISTRATION UNDER THIS ARTICLE IN AN EXPEDITED MANNER THAT MEETS THE GOALS OF SUBSECTION (A) OF THIS SECTION.~~

~~(2) IF THE SECRETARY APPROVES AN ALTERNATIVE PROCESS FOR LICENSURE, CERTIFICATION, OR REGISTRATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THEN THE HEALTH OCCUPATIONS BOARD SHALL BE CONSIDERED TO HAVE FULFILLED THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.~~

~~**1–704.**~~

~~(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A HEALTH OCCUPATIONS BOARD MAY ISSUE A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO HOLDS A VALID LICENSE, CERTIFICATE, OR REGISTRATION IN GOOD STANDING ISSUED IN ANOTHER STATE FOR WHICH THE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION ARE NOT SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS IN THIS STATE.~~

~~(B) A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION ISSUED UNDER THIS SECTION AUTHORIZES THE SERVICE MEMBER, VETERAN, OR~~

~~MILITARY SPOUSE, FOR A LIMITED PERIOD OF TIME, TO PERFORM SERVICES REGULATED BY THE HEALTH OCCUPATIONS BOARD WHILE THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE COMPLETES ADDITIONAL REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION IN THIS STATE.~~

~~(C) A HEALTH OCCUPATIONS BOARD MAY NOT ISSUE A LICENSE, CERTIFICATE, OR REGISTRATION UNDER THIS SECTION IF ISSUANCE OF THE LICENSE, CERTIFICATE, OR REGISTRATION WOULD POSE A RISK TO PUBLIC HEALTH, WELFARE, OR SAFETY.~~

~~1–705.~~

~~EACH HEALTH OCCUPATIONS BOARD SHALL PUBLISH PROMINENTLY ON ITS WEB SITE:~~

~~(1) THE PROCESS FOR OBTAINING A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION UNDER § 1–703 OF THIS SUBTITLE AND, IF APPLICABLE, § 1–704 OF THIS SUBTITLE; AND~~

~~(2) THE PROCESS FOR APPLYING FOR A PERMANENT LICENSE, CERTIFICATE, OR REGISTRATION FROM THE HEALTH OCCUPATIONS BOARD.~~

1–703.

A HEALTH OCCUPATIONS BOARD MAY ALLOW A LICENSEE OR CERTIFICATE HOLDER WHO IS A MEMBER OF AN ARMED FORCE DEPLOYED OUTSIDE THE UNITED STATES OR ITS TERRITORIES TO:

(1) RENEW THE LICENSE OR CERTIFICATE AFTER THE EXPIRATION OF THE RENEWAL PERIOD WITHOUT PAYMENT OF A PENALTY OR REINSTATEMENT FEE IF THE LATE RENEWAL IS A DIRECT RESULT OF THE DEPLOYMENT; AND

(2) COMPLETE ANY CONTINUING EDUCATION OR CONTINUING COMPETENCY REQUIREMENTS OR CRIMINAL HISTORY RECORDS CHECK REQUIRED FOR RENEWAL WITHIN A REASONABLE TIME AFTER RENEWING THE LICENSE OR CERTIFICATE.

1–704.

(A) (1) EACH HEALTH OCCUPATIONS BOARD SHALL DEVELOP A PROCEDURE BY WHICH AN INDIVIDUAL WHO APPLIES FOR A LICENSE,

CERTIFICATE, OR REGISTRATION CAN NOTIFY THE BOARD THAT THE INDIVIDUAL IS A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE.

(2) A HEALTH OCCUPATIONS BOARD MAY SATISFY THE REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION BY INCLUDING A CHECK–OFF BOX ON A LICENSE, CERTIFICATE, OR REGISTRATION APPLICATION FORM.

(B) FOR EACH APPLICANT WHO IS A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, A HEALTH OCCUPATIONS BOARD SHALL ASSIGN TO THE APPLICANT AN ADVISOR TO ASSIST THE INDIVIDUAL WITH THE APPLICATION PROCESS.

(C) (1) EACH HEALTH OCCUPATIONS BOARD SHALL EXPEDITE THE PROCESS FOR THE LICENSURE, CERTIFICATION, OR REGISTRATION OF A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE.

(2) IF A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE MEETS THE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION, A HEALTH OCCUPATIONS BOARD SHALL ISSUE THE LICENSE, CERTIFICATE, OR REGISTRATION WITHIN 15 BUSINESS DAYS AFTER RECEIVING A COMPLETED APPLICATION.

(D) IF A HEALTH OCCUPATIONS BOARD DETERMINES THAT A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE DOES NOT MEET THE EDUCATION, TRAINING, OR EXPERIENCE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION, A REPRESENTATIVE OF THE BOARD SHALL ASSIST THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE IN IDENTIFYING:

(1) PROGRAMS THAT OFFER RELEVANT EDUCATION OR TRAINING; OR

(2) WAYS OF OBTAINING NEEDED EXPERIENCE.

1–705.

EACH HEALTH OCCUPATIONS BOARD SHALL PUBLISH PROMINENTLY ON ITS WEB SITE INFORMATION ON:

(1) THE EXPEDITED LICENSING PROCESS AVAILABLE TO SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES UNDER § 1–704 OF THIS SUBTITLE; AND

(2) ANY ASSISTANCE AND SERVICES RELATED TO LICENSURE, CERTIFICATION, OR REGISTRATION PROVIDED BY THE BOARD TO SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES.

1–706.

EACH HEALTH OCCUPATIONS BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That ~~on~~:

(a) On or before January 1, 2014, the Department of Health and Mental Hygiene, the Department of Labor, Licensing, and Regulation, the State Department of Education, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Higher Education Commission shall submit a preliminary report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the implementation of this Act.

(b) On or before January 1, 2015, the Department of Health and Mental Hygiene, the Department of Labor, Licensing, and Regulation, the State Department of Education, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Higher Education Commission shall submit a final report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the implementation of this Act.

(c) The reports required under subsections (a) and (b) of this section shall, for each licensing unit, include:

(1) the number of applicants who identified themselves as service members, veterans, or military spouses;

(2) the number of service members, veterans, or military spouses whose applications for a license, certificate, or registration were approved;

(3) the number of service members, veterans, or military spouses whose applications for a license, certificate, or registration were denied, including data on the reasons for denial;

(4) data on the licensing unit's application processing times for service members, veterans, and military spouses;

(5) information on the licensing unit's efforts to assist service members, veterans, and military spouses in identifying programs that offer education and training needed to meet the requirements for licensure, certification, or registration;

(6) information on whether the applicable provisions of this Act effectively address the challenges that service members, veterans, and military spouses face when applying for an occupational or professional license, certificate, or registration on discharge from military service or after relocating to the State; and

(7) recommendations on ways to improve the licensing unit's ability to meet the needs of service members, veterans, and military spouses, including recommendations on whether issuing temporary or provisional licenses, certificates, or registrations would allow the licensing unit to more effectively address the challenges that service members, veterans, and military spouses face when applying for an occupational or professional license, certificate, or registration.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 17, 2013.

Chapter 155

(House Bill 225)

AN ACT concerning

Veterans Full Employment Act of 2013

FOR the purpose of requiring certain licensing units and boards to give credit to certain former service members for relevant military training, education, and experience in connection with the issuance of certain occupational and professional licenses, certificates, and registrations; repealing and recodifying certain provisions of law regarding the renewal of certain occupational or professional licenses and the completion of continuing education or continuing competency requirements for certain members of an armed force deployed outside the State; requiring certain licensing units and boards to issue a temporary expedited license, certification, or registration to certain individuals under certain circumstances; authorizing certain licensing units and boards to issue a temporary license under certain circumstances; ~~authorizing certain health occupations boards to apply to the Secretary of Health and Mental Hygiene for consideration of an alternate process of expedited licensing, certification, or registration under certain circumstances~~ requiring certain health occupations boards to develop certain procedures by which an applicant for a license, certificate, or registration can provide certain notice to the board; requiring each health occupations board to expedite the licensing, certification, or registration process for certain applicants and issue a license, certificate, or registration within a certain number of days under certain circumstances; requiring each health occupations board to assign to certain applicants a certain

advisor; requiring each health occupations board to provide certain assistance to certain persons under certain circumstances; requiring the State Superintendent of Schools to expedite educator certification under certain circumstances; authorizing the State Superintendent of Schools to issue a temporary educator certificate under certain circumstances; requiring certain licensing units and boards and the State Department of Education to publish certain information on a certain Web site; authorizing certain licensing units and boards, the Commissioner of Financial Regulation, and the State Board of Education to adopt certain regulations; requiring the Maryland Higher Education Commission to develop and adopt certain guidelines regarding the awarding of academic credit for military training, coursework, and education; requiring public institutions of higher education to develop and implement certain policies in accordance with the guidelines adopted by the Commission; requiring that certain reports on the implementation of this Act be submitted to the Governor and the General Assembly on or before ~~a~~ certain ~~date~~ dates; and generally relating to occupational and professional licensing requirements and the crediting, for certain purposes, of certain training, experience, and education of service members, veterans, and military spouses.

BY repealing
Article – Business Regulation
Section 2–111
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Business Regulation
Section 2.5–101 through 2.5–108 to be under the new title "Title 2.5. Service Members, Veterans, and Military Spouses – Licensing"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 6–101.1, 13–516(b–1), and 15–113
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 10–101(c) and 13–501(f)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Financial Institutions
Section 11–612.2

Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Health Occupations
Section 1–701 through 1–706 to be under the new subtitle "Subtitle 7. Service Members, Veterans, and Military Spouses – Licensing"
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 2–111 of Article – Business Regulation of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Business Regulation

TITLE 2.5. SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES – LICENSING.

2.5–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "LICENSE" MEANS ANY GRANT OF AUTHORITY TO AN INDIVIDUAL TO PRACTICE AN OCCUPATION OR PROFESSION.

(2) "LICENSE" INCLUDES A CERTIFICATE, PERMIT, OR REGISTRATION.

(C) <u>(1)</u> "MILITARY SPOUSE" MEANS THE SPOUSE OF A SERVICE MEMBER OR VETERAN.

<u>(2) "MILITARY SPOUSE" INCLUDES A SURVIVING SPOUSE OF:</u>

<u>(I) A VETERAN; OR</u>

<u>(II) A SERVICE MEMBER WHO DIED WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR A LICENSE IS SUBMITTED.</u>

(D) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(1) THE ARMED FORCES OF THE UNITED STATES;

(2) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(3) THE NATIONAL GUARD OF ANY STATE.

(E) "UNIT" MEANS A UNIT IN THE DEPARTMENT THAT IS AUTHORIZED TO ISSUE A LICENSE.

(F) (1) "VETERAN" MEANS A FORMER SERVICE MEMBER WHO WAS ~~HONORABLY DISCHARGED FROM ACTIVE DUTY~~ DISCHARGED FROM ACTIVE DUTY UNDER CIRCUMSTANCES OTHER THAN DISHONORABLE WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR A LICENSE IS SUBMITTED.

(2) "VETERAN" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS COMPLETED ACTIVE DUTY AND HAS BEEN DISCHARGED FOR MORE THAN 1 YEAR BEFORE THE APPLICATION FOR A LICENSE IS SUBMITTED.

2.5–102.

THIS TITLE DOES NOT APPLY TO LICENSES ISSUED UNDER TITLE 11, SUBTITLE 5 OR SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE.

2.5–103.

A UNIT MAY ALLOW AN INDIVIDUAL LICENSEE WHO IS A MEMBER OF AN ARMED FORCE DEPLOYED OUTSIDE THE STATE TO:

(1) RENEW THE LICENSE AFTER THE EXPIRATION OF THE RENEWAL PERIOD WITHOUT PAYMENT OF A PENALTY OR REINSTATEMENT FEE IF THE LATE RENEWAL IS A DIRECT RESULT OF THE DEPLOYMENT; AND

(2) COMPLETE ANY CONTINUING EDUCATION OR CONTINUING COMPETENCY REQUIREMENTS FOR RENEWAL WITHIN A REASONABLE TIME AFTER RENEWING THE LICENSE.

2.5–104.

(A) IN CALCULATING AN INDIVIDUAL'S YEARS OF PRACTICE IN AN OCCUPATION OR A PROFESSION, EACH UNIT SHALL GIVE CREDIT TO THE INDIVIDUAL FOR ALL RELEVANT EXPERIENCE AS A SERVICE MEMBER.

(B) EACH UNIT SHALL CREDIT ANY TRAINING AND EDUCATION PROVIDED BY THE MILITARY AND COMPLETED BY A SERVICE MEMBER TOWARD ANY TRAINING OR EDUCATION REQUIREMENTS FOR LICENSURE IF THE TRAINING OR EDUCATION IS DETERMINED BY THE UNIT TO BE:

(1) SUBSTANTIALLY EQUIVALENT TO THE TRAINING OR EDUCATION REQUIRED BY THE UNIT; AND

(2) NOT OTHERWISE CONTRARY TO ANY OTHER LICENSING REQUIREMENT.

2.5–105.

(A) EACH UNIT SHALL ISSUE AN EXPEDITED TEMPORARY LICENSE TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) A TEMPORARY LICENSE ISSUED UNDER THIS SECTION IS VALID UNTIL THE EARLIER OF:

(1) 6 MONTHS AFTER THE DATE OF ISSUANCE; OR

(2) THE DATE ON WHICH A LICENSE IS GRANTED OR A NOTICE TO DENY A LICENSE IS ISSUED BY THE UNIT.

(C) AN APPLICATION FOR A TEMPORARY LICENSE SHALL INCLUDE THE FOLLOWING, IN THE FORM AND MANNER REQUIRED BY THE UNIT:

(1) PROOF THAT THE APPLICANT IS A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE;

(2) PROOF THAT THE APPLICANT HOLDS A VALID LICENSE IN GOOD STANDING ISSUED IN ANOTHER STATE;

(3) IF THE APPLICANT IS A SERVICE MEMBER OR VETERAN, PROOF THAT THE APPLICANT IS ASSIGNED TO A DUTY STATION IN THE STATE OR HAS ESTABLISHED LEGAL RESIDENCE IN THE STATE;

(4) IF THE APPLICANT IS A MILITARY SPOUSE, PROOF THAT THE APPLICANT'S SPOUSE IS ASSIGNED TO A DUTY STATION IN THE STATE OR HAS ESTABLISHED LEGAL RESIDENCE IN THE STATE;

(5) IF A CRIMINAL BACKGROUND CHECK IS REQUIRED BY THE UNIT FOR LICENSURE, PROOF OF APPLICATION FOR A CRIMINAL BACKGROUND CHECK;

(6) PROOF THAT THE APPLICANT HAS SUBMITTED THE FULL APPLICATION FOR LICENSURE; AND

(7) PAYMENT OF ANY APPLICATION FEE REQUIRED BY THE UNIT.

(D) BEFORE ISSUING A TEMPORARY LICENSE UNDER THIS SECTION, THE UNIT SHALL DETERMINE THAT THE REQUIREMENTS FOR LICENSURE IN THE OTHER STATE ARE SUBSTANTIALLY EQUIVALENT TO, OR EXCEED THE REQUIREMENTS FOR, LICENSURE IN THIS STATE.

2.5–106.

(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A UNIT MAY ISSUE A TEMPORARY LICENSE TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO HOLDS A VALID LICENSE IN GOOD STANDING ISSUED IN ANOTHER STATE FOR WHICH THE REQUIREMENTS FOR LICENSURE ARE NOT SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS FOR LICENSURE IN THIS STATE.

(B) A TEMPORARY LICENSE ISSUED UNDER THIS SECTION AUTHORIZES THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, FOR A LIMITED PERIOD OF TIME, AS DETERMINED BY THE UNIT, TO PERFORM SERVICES REGULATED BY THE UNIT WHILE THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE COMPLETES ADDITIONAL REQUIREMENTS FOR LICENSURE IN THIS STATE.

(C) A UNIT MAY NOT ISSUE A LICENSE UNDER THIS SECTION IF ISSUANCE OF THE LICENSE WOULD POSE A RISK TO PUBLIC HEALTH, WELFARE, OR SAFETY.

2.5–107.

EACH UNIT SHALL PUBLISH PROMINENTLY ON ITS WEB SITE:

(1) THE PROCESS FOR OBTAINING A TEMPORARY LICENSE UNDER § 2.5–105 OF THIS TITLE AND, IF APPLICABLE, § 2.5–106 OF THIS TITLE; AND

(2) THE PROCESS FOR APPLYING FOR A PERMANENT LICENSE FROM THE UNIT.

2.5–108.

EACH UNIT MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

Article – Education

6–101.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "MILITARY SPOUSE" MEANS THE SPOUSE OF A SERVICE MEMBER OR VETERAN.

(II) "MILITARY SPOUSE" INCLUDES A SURVIVING SPOUSE OF:

1. A VETERAN; OR

2. A SERVICE MEMBER WHO DIED WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR AN EDUCATOR CERTIFICATE IS SUBMITTED.

(3) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(I) THE ARMED FORCES OF THE UNITED STATES;

(II) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(III) THE NATIONAL GUARD OF ANY STATE.

(4) (I) "VETERAN" MEANS A FORMER SERVICE MEMBER WHO WAS ~~HONORABLY DISCHARGED FROM ACTIVE DUTY~~ DISCHARGED FROM ACTIVE DUTY UNDER CIRCUMSTANCES OTHER THAN DISHONORABLE WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR AN EDUCATOR CERTIFICATE IS SUBMITTED.

(II) "VETERAN" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS COMPLETED ACTIVE DUTY AND HAS BEEN DISCHARGED FOR MORE THAN 1 YEAR BEFORE THE APPLICATION FOR AN EDUCATOR CERTIFICATE IS SUBMITTED.

(B) THE STATE SUPERINTENDENT SHALL EXPEDITE EDUCATOR CERTIFICATION FOR A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE.

(C) TO QUALIFY FOR EXPEDITED EDUCATOR CERTIFICATION UNDER THIS SECTION, A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE SHALL:

(1) SUBMIT AN APPLICATION FOR EDUCATOR CERTIFICATION;

(2) HOLD A VALID EDUCATOR LICENSE OR CERTIFICATE IN GOOD STANDING ISSUED IN ANOTHER STATE;

(3) MEET THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION IN COMAR 13A.12.01.04 AND.05; AND

(4) PAY THE APPLICABLE CERTIFICATION FEE.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE STATE SUPERINTENDENT, AT THE REQUEST OF A LOCAL SCHOOL SYSTEM, MAY ISSUE A TEMPORARY EDUCATOR CERTIFICATE TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO HOLDS A VALID EDUCATOR CERTIFICATE OR LICENSE IN GOOD STANDING ISSUED IN ANOTHER STATE BUT WHO DOES NOT MEET THE QUALIFICATIONS FOR EDUCATOR CERTIFICATION IN THIS STATE.

(2) A TEMPORARY EDUCATOR CERTIFICATE ISSUED UNDER THIS SUBSECTION AUTHORIZES THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, FOR A LIMITED PERIOD OF TIME, AS DETERMINED BY THE STATE SUPERINTENDENT, TO BE EMPLOYED AS AN EDUCATOR IN THE STATE WHILE THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE COMPLETES ADDITIONAL REQUIREMENTS FOR CERTIFICATION IN THIS STATE.

(E) THE DEPARTMENT SHALL PUBLISH PROMINENTLY ON ITS WEB SITE THE PROCESS FOR OBTAINING EXPEDITED EDUCATOR CERTIFICATION UNDER THIS SECTION.

(F) THE STATE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

10–101.

(c) "Commission" means the Maryland Higher Education Commission.

13–501.

(f) "EMS Board" means the State Emergency Medical Services Board.

13–516.

(B–1) (1) IN THIS SUBSECTION, "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(I) THE ARMED FORCES OF THE UNITED STATES;

(II) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(III) THE NATIONAL GUARD OF ANY STATE.

(2) (I) IN CALCULATING AN INDIVIDUAL'S YEARS OF EXPERIENCE IN AN OCCUPATION OR PROFESSION, THE EMS BOARD SHALL GIVE CREDIT TO THE INDIVIDUAL FOR ALL RELEVANT EXPERIENCE AS A SERVICE MEMBER.

(II) THE EMS BOARD SHALL CREDIT ANY TRAINING AND EDUCATION PROVIDED BY THE MILITARY AND COMPLETED BY A SERVICE MEMBER TOWARD ANY TRAINING OR EDUCATION REQUIREMENTS FOR LICENSURE OR CERTIFICATION IF THE TRAINING OR EDUCATION IS DETERMINED BY THE EMS BOARD TO BE:

1. SUBSTANTIALLY EQUIVALENT TO THE TRAINING OR EDUCATION REQUIRED BY THE EMS BOARD; AND

2. NOT OTHERWISE CONTRARY TO ANY OTHER LICENSING REQUIREMENT.

15–113.

(A) THE COMMISSION, IN CONSULTATION WITH THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE, SHALL DEVELOP AND ADOPT GUIDELINES ON AWARDING ACADEMIC CREDIT FOR A STUDENT'S MILITARY TRAINING, COURSEWORK, AND EDUCATION.

(B) IN ACCORDANCE WITH THE GUIDELINES DEVELOPED BY THE COMMISSION UNDER SUBSECTION (A) OF THIS SECTION, THE GOVERNING BODY OF EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL DEVELOP AND IMPLEMENT POLICIES GOVERNING THE AWARDING OF ACADEMIC CREDIT FOR A STUDENT'S MILITARY TRAINING, COURSEWORK, AND EDUCATION.

Article – Financial Institutions

11–612.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "MILITARY SPOUSE" MEANS THE SPOUSE OF A SERVICE MEMBER OR VETERAN.

(II) "MILITARY SPOUSE" INCLUDES A SURVIVING SPOUSE OF:

1. A VETERAN; OR

2. A SERVICE MEMBER WHO DIED WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE LICENSE APPLICATION, RENEWAL, OR CHANGE OF STATUS IS SUBMITTED.

(3) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(I) THE ARMED FORCES OF THE UNITED STATES;

(II) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(III) THE NATIONAL GUARD OF ANY STATE.

(4) (I) "VETERAN" MEANS A FORMER SERVICE MEMBER WHO WAS ~~HONORABLY DISCHARGED FROM ACTIVE DUTY~~ DISCHARGED FROM ACTIVE DUTY UNDER CIRCUMSTANCES OTHER THAN DISHONORABLE WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE LICENSE APPLICATION, RENEWAL, OR CHANGE OF STATUS IS SUBMITTED.

(II) "VETERAN" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS COMPLETED ACTIVE DUTY AND HAS BEEN DISCHARGED FOR MORE THAN 1 YEAR BEFORE THE LICENSE APPLICATION, RENEWAL, OR CHANGE OF STATUS IS SUBMITTED.

(B) TO EXPEDITE THE RENEWAL OR CHANGE OF STATUS OF A LICENSE FOR A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, THE COMMISSIONER:

(1) SHALL WAIVE, AS APPLICABLE, THE STATE CRIMINAL HISTORY RECORDS CHECK; AND

(2) MAY WAIVE OR SUSPEND ANY OTHER LICENSING REQUIREMENTS TO THE EXTENT THAT THE WAIVER OR SUSPENSION DOES NOT RESULT IN THE FAILURE TO MEET THE MINIMUM LICENSING STANDARDS SET FORTH IN 12 U.S.C. CHAPTER 51 AND THE REGULATIONS ADOPTED UNDER IT.

(C) TO EXPEDITE THE ISSUANCE OF A LICENSE TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO HOLDS A VALID MORTGAGE LOAN ORIGINATOR LICENSE IN ANOTHER STATE, THE COMMISSIONER:

(1) SHALL WAIVE THE STATE CRIMINAL HISTORY RECORDS CHECK; AND

(2) MAY WAIVE OR SUSPEND ANY OTHER LICENSING REQUIREMENTS TO THE EXTENT THAT THE WAIVER OR SUSPENSION DOES NOT RESULT IN THE FAILURE TO MEET THE MINIMUM LICENSING STANDARDS SET FORTH IN 12 U.S.C. CHAPTER 51 AND THE REGULATIONS ADOPTED UNDER IT.

(D) THE COMMISSIONER SHALL PUBLISH PROMINENTLY ON THE COMMISSIONER'S WEB SITE, OR HAVE PUBLISHED ON A THIRD–PARTY WEB SITE USED FOR LICENSING MORTGAGE LOAN ORIGINATORS IN THE STATE, THE EXPEDITED PROCESSES FOR THE ISSUANCE, RENEWAL, OR CHANGE OF STATUS OF A LICENSE UNDER THIS SECTION.

(E) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

Article – Health Occupations

SUBTITLE 7. SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES – LICENSING.

1–701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "HEALTH OCCUPATIONS BOARD" MEANS A BOARD AUTHORIZED TO ISSUE A LICENSE, CERTIFICATE, OR REGISTRATION UNDER THIS ARTICLE.

(C) (1) "MILITARY SPOUSE" MEANS THE SPOUSE OF A SERVICE MEMBER OR VETERAN.

(2) "MILITARY SPOUSE" INCLUDES A SURVIVING SPOUSE OF:

(I) A VETERAN; OR

(II) A SERVICE MEMBER WHO DIED WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR A LICENSE, CERTIFICATE, OR REGISTRATION IS SUBMITTED.

(D) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY MEMBER OF:

(1) THE ARMED FORCES OF THE UNITED STATES;

(2) A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES; OR

(3) THE NATIONAL GUARD OF ANY STATE.

(E) (1) "VETERAN" MEANS A FORMER SERVICE MEMBER WHO WAS ~~HONORABLY DISCHARGED FROM ACTIVE DUTY~~ DISCHARGED FROM ACTIVE DUTY UNDER CIRCUMSTANCES OTHER THAN DISHONORABLE WITHIN 1 YEAR BEFORE THE DATE ON WHICH THE APPLICATION FOR A LICENSE, CERTIFICATE, OR REGISTRATION IS SUBMITTED.

(2) "VETERAN" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS COMPLETED ACTIVE DUTY AND HAS BEEN DISCHARGED FOR MORE THAN 1 YEAR BEFORE THE APPLICATION FOR A LICENSE, CERTIFICATE, OR REGISTRATION IS SUBMITTED.

1–702.

(A) IN CALCULATING AN INDIVIDUAL'S YEARS OF PRACTICE IN A HEALTH OCCUPATION, EACH HEALTH OCCUPATIONS BOARD SHALL GIVE CREDIT TO THE INDIVIDUAL FOR ALL RELEVANT EXPERIENCE AS A SERVICE MEMBER.

(B) EACH HEALTH OCCUPATIONS BOARD SHALL CREDIT ANY TRAINING AND EDUCATION PROVIDED BY THE MILITARY AND COMPLETED BY A SERVICE MEMBER TOWARD ANY TRAINING OR EDUCATION REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION IF THE TRAINING OR EDUCATION IS DETERMINED BY THE HEALTH OCCUPATIONS BOARD TO BE:

(1) SUBSTANTIALLY EQUIVALENT TO THE TRAINING OR EDUCATION REQUIRED BY THE HEALTH OCCUPATIONS BOARD; AND

(2) NOT OTHERWISE CONTRARY TO ANY OTHER LICENSING REQUIREMENT.

~~1–703.~~

~~(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH HEALTH OCCUPATIONS BOARD SHALL ISSUE AN EXPEDITED TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO MEETS THE REQUIREMENTS OF THIS SUBSECTION.~~

~~(2) A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION ISSUED UNDER THIS SUBSECTION IS VALID UNTIL THE EARLIER OF:~~

~~(I) 6 MONTHS AFTER THE DATE OF ISSUANCE; OR~~

~~(II) THE DATE ON WHICH A LICENSE, CERTIFICATE, OR REGISTRATION IS GRANTED OR A NOTICE TO DENY A LICENSE, CERTIFICATE, OR REGISTRATION IS ISSUED BY THE HEALTH OCCUPATIONS BOARD.~~

~~(3) AN APPLICATION FOR A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION TO PRACTICE A HEALTH OCCUPATION UNDER THIS SUBSECTION SHALL INCLUDE THE FOLLOWING, IN THE FORM AND MANNER REQUIRED BY THE HEALTH OCCUPATIONS BOARD:~~

~~(I) PROOF THAT THE APPLICANT IS A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE;~~

~~(II) PROOF THAT THE APPLICANT HOLDS A VALID LICENSE, CERTIFICATE, OR REGISTRATION IN GOOD STANDING ISSUED IN ANOTHER STATE;~~

~~(III) IF THE APPLICANT IS A SERVICE MEMBER OR VETERAN, PROOF THAT THE APPLICANT IS ASSIGNED TO A DUTY STATION IN THE STATE OR HAS ESTABLISHED LEGAL RESIDENCE IN THE STATE;~~

~~(IV) IF THE APPLICANT IS A MILITARY SPOUSE, PROOF THAT THE APPLICANT'S SPOUSE IS ASSIGNED TO A DUTY STATION IN THE STATE OR HAS ESTABLISHED LEGAL RESIDENCE IN THE STATE;~~

~~(V) IF A CRIMINAL BACKGROUND CHECK IS REQUIRED BY THE HEALTH OCCUPATIONS BOARD FOR LICENSURE, CERTIFICATION, OR REGISTRATION, PROOF OF APPLICATION FOR A CRIMINAL BACKGROUND CHECK;~~

~~(VI) PROOF THAT THE APPLICANT HAS SUBMITTED THE FULL APPLICATION FOR LICENSURE, CERTIFICATION, OR REGISTRATION; AND~~

~~(VII) PAYMENT OF ANY APPLICATION FEE REQUIRED BY THE HEALTH OCCUPATIONS BOARD.~~

~~(4) BEFORE ISSUING A TEMPORARY LICENSE UNDER THIS SUBSECTION, THE HEALTH OCCUPATIONS BOARD SHALL DETERMINE THAT THE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION IN THE OTHER STATE ARE SUBSTANTIALLY EQUIVALENT TO, OR EXCEED THE REQUIREMENTS FOR, LICENSURE, CERTIFICATION, OR REGISTRATION IN THIS STATE.~~

~~(B) (1) A HEALTH OCCUPATIONS BOARD MAY APPLY TO THE SECRETARY FOR CONSIDERATION OF A PROCESS FOR LICENSURE, CERTIFICATION, OR REGISTRATION THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, BUT THAT ALLOWS SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES TO OBTAIN A LICENSE, CERTIFICATE, OR REGISTRATION UNDER THIS ARTICLE IN AN EXPEDITED MANNER THAT MEETS THE GOALS OF SUBSECTION (A) OF THIS SECTION.~~

~~(2) IF THE SECRETARY APPROVES AN ALTERNATIVE PROCESS FOR LICENSURE, CERTIFICATION, OR REGISTRATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THEN THE HEALTH OCCUPATIONS BOARD SHALL BE CONSIDERED TO HAVE FULFILLED THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.~~

~~1–704.~~

~~(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A HEALTH OCCUPATIONS BOARD MAY ISSUE A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION TO A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE WHO HOLDS A VALID LICENSE, CERTIFICATE, OR REGISTRATION IN GOOD STANDING ISSUED IN ANOTHER STATE FOR WHICH THE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION ARE NOT SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS IN THIS STATE.~~

~~(B) A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION ISSUED UNDER THIS SECTION AUTHORIZES THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, FOR A LIMITED PERIOD OF TIME, TO PERFORM SERVICES REGULATED BY THE HEALTH OCCUPATIONS BOARD WHILE THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE COMPLETES ADDITIONAL REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION IN THIS STATE.~~

~~(C) A HEALTH OCCUPATIONS BOARD MAY NOT ISSUE A LICENSE, CERTIFICATE, OR REGISTRATION UNDER THIS SECTION IF ISSUANCE OF THE LICENSE, CERTIFICATE, OR REGISTRATION WOULD POSE A RISK TO PUBLIC HEALTH, WELFARE, OR SAFETY.~~

~~1–705.~~

~~EACH HEALTH OCCUPATIONS BOARD SHALL PUBLISH PROMINENTLY ON ITS WEB SITE:~~

~~(1) THE PROCESS FOR OBTAINING A TEMPORARY LICENSE, CERTIFICATE, OR REGISTRATION UNDER § 1–703 OF THIS SUBTITLE AND, IF APPLICABLE, § 1–704 OF THIS SUBTITLE; AND~~

~~(2) THE PROCESS FOR APPLYING FOR A PERMANENT LICENSE, CERTIFICATE, OR REGISTRATION FROM THE HEALTH OCCUPATIONS BOARD.~~

1–703.

A HEALTH OCCUPATIONS BOARD MAY ALLOW A LICENSEE OR CERTIFICATE HOLDER WHO IS A MEMBER OF AN ARMED FORCE DEPLOYED OUTSIDE THE UNITED STATES OR ITS TERRITORIES TO:

(1) RENEW THE LICENSE OR CERTIFICATE AFTER THE EXPIRATION OF THE RENEWAL PERIOD WITHOUT PAYMENT OF A PENALTY OR REINSTATEMENT FEE IF THE LATE RENEWAL IS A DIRECT RESULT OF THE DEPLOYMENT; AND

(2) COMPLETE ANY CONTINUING EDUCATION OR CONTINUING COMPETENCY REQUIREMENTS OR CRIMINAL HISTORY RECORDS CHECK REQUIRED FOR RENEWAL WITHIN A REASONABLE TIME AFTER RENEWING THE LICENSE OR CERTIFICATE.

1–704.

(A) (1) EACH HEALTH OCCUPATIONS BOARD SHALL DEVELOP A PROCEDURE BY WHICH AN INDIVIDUAL WHO APPLIES FOR A LICENSE, CERTIFICATE, OR REGISTRATION CAN NOTIFY THE BOARD THAT THE INDIVIDUAL IS A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE.

(2) A HEALTH OCCUPATIONS BOARD MAY SATISFY THE REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION BY INCLUDING A CHECK–OFF BOX ON A LICENSE, CERTIFICATE, OR REGISTRATION APPLICATION FORM.

(B) FOR EACH APPLICANT WHO IS A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE, A HEALTH OCCUPATIONS BOARD SHALL ASSIGN TO THE APPLICANT AN ADVISOR TO ASSIST THE INDIVIDUAL WITH THE APPLICATION PROCESS.

(C) (1) EACH HEALTH OCCUPATIONS BOARD SHALL EXPEDITE *THE PROCESS FOR* THE LICENSURE, CERTIFICATION, OR REGISTRATION OF A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE.

(2) IF A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE MEETS THE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION, A HEALTH OCCUPATIONS BOARD SHALL ISSUE THE LICENSE, CERTIFICATE, OR REGISTRATION WITHIN 15 BUSINESS DAYS AFTER RECEIVING A COMPLETED APPLICATION.

(D) IF A HEALTH OCCUPATIONS BOARD DETERMINES THAT A SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE DOES NOT MEET THE EDUCATION, TRAINING, OR EXPERIENCE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION, A REPRESENTATIVE OF THE BOARD SHALL ASSIST THE SERVICE MEMBER, VETERAN, OR MILITARY SPOUSE IN IDENTIFYING:

(1) PROGRAMS THAT OFFER RELEVANT EDUCATION OR TRAINING; OR

(2) WAYS OF OBTAINING NEEDED EXPERIENCE.

1–705.

EACH HEALTH OCCUPATIONS BOARD SHALL PUBLISH PROMINENTLY ON ITS WEB SITE INFORMATION ON:

(1) THE EXPEDITED LICENSING PROCESS AVAILABLE TO SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES UNDER § 1–704 OF THIS SUBTITLE; AND

(2) ANY ASSISTANCE AND SERVICES RELATED TO LICENSURE, CERTIFICATION, OR REGISTRATION PROVIDED BY THE BOARD TO SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES.

1–706.

EACH HEALTH OCCUPATIONS BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That ~~on~~:

(a) On or before January 1, 2014, the Department of Health and Mental Hygiene, the Department of Labor, Licensing, and Regulation, the State Department of Education, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Higher Education Commission shall submit a preliminary report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the implementation of this Act.

(b) On or before January 1, 2015, the Department of Health and Mental Hygiene, the Department of Labor, Licensing, and Regulation, the State Department of Education, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Higher Education Commission shall submit a final report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the implementation of this Act.

(c) The reports required under subsections (a) and (b) of this section shall, for each licensing unit, include:

(1) the number of applicants who identified themselves as service members, veterans, or military spouses;

(2) the number of service members, veterans, or military spouses whose applications for a license, certificate, or registration were approved;

(3) the number of service members, veterans, or military spouses whose applications for a license, certificate, or registration were denied, including data on the reasons for denial;

(4) data on the licensing unit's application processing times for service members, veterans, and military spouses;

(5) information on the licensing unit's efforts to assist service members, veterans, and military spouses in identifying programs that offer education and training needed to meet the requirements for licensure, certification, or registration;

(6) information on whether the applicable provisions of this Act effectively address the challenges that service members, veterans, and military spouses face when applying for an occupational or professional license, certificate, or registration on discharge from military service or after relocating to the State; and

(7) recommendations on ways to improve the licensing unit's ability to meet the needs of service members, veterans, and military spouses, including recommendations on whether issuing temporary or provisional licenses, certificates, or registrations would allow the licensing unit to more effectively address the challenges

that service members, veterans, and military spouses face when applying for an occupational or professional license, certificate, or registration.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 17, 2013.

Chapter 156

(Senate Bill 276)

AN ACT concerning

Death Penalty Repeal ~~and Appropriation from Savings to Aid Survivors of Homicide Victims~~ – Substitution of Life Without the Possibility of Parole

FOR the purpose of repealing the death penalty; repealing procedures and requirements related to the death penalty; providing that in certain cases in which the State has filed a notice to seek a sentence of death, the notice shall be considered withdrawn and it shall be considered a notice to seek a sentence of life imprisonment without the possibility of parole under certain circumstances; providing that certain persons serving life sentences are not eligible for Patuxent Institution under certain circumstances; altering the circumstance concerning parole for persons serving life sentences when the State sought a certain penalty; ~~requiring the Governor to include in the annual budget submission for certain fiscal years a certain amount for the State Victims of Crime Fund;~~ altering the authorization for the Governor to commute or change a sentence of death into a certain period of confinement; making conforming and clarifying changes; and generally relating to the repeal of the death penalty.

BY repealing
Article – Correctional Services
Section 3–901 through 3–909 and the subtitle "Subtitle 9. Death Penalty Procedures"
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing
Article – Criminal Procedure
Section 7–201 through 7–204 and the subtitle "Subtitle 2. Proceedings After Death Sentences"; 8–108 and 11–404
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 4–101(e)(2), 4–305(b)(2), 6–112(c), 7–301(d)(2), and 7–601(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–03(d)(1), 3–8A–06(a), 8–404, 8–420, 9–204, and 12–307
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 3–105(b), 3–106(a), 3–107(a), 4–204(b), 5–101(c), 7–101, 7–103(b), ~~7–107(b), and 11–916~~ and 7–107(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing
Article – Criminal Law
Section 2–103(h), 2–202, 2–301, 2–303; and 2–401 and the subtitle "Subtitle 4. Review by Court of Appeals"
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 2–201(b), 2–304(a), 2–305, and 14–101
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 8–505(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–812(a)
Annotated Code of Maryland
(2012 Replacement Volume)

Preamble

WHEREAS, The Maryland Commission on Capital Punishment was created by Chapter 431 of the Acts of the General Assembly of 2008 for the purpose of studying all aspects of capital punishment as currently and historically administered in the State; and

WHEREAS, The Commission comprised 23 appointees representing a broad diversity of views on capital punishment, as well as the racial, ethnic, gender, and geographic diversity of the State; and

WHEREAS, The Commission held five public hearings at which testimony from experts and members of the public was presented and discussed, as well as five additional meetings to discuss the evidence presented at the hearings and in the written submissions; and

WHEREAS, The Commission issued its final report to the General Assembly on December 12, 2008, which included the Commission's strong recommendation that, to eliminate racial and jurisdictional bias, reduce unnecessary costs, lessen the misery that capital cases force family members of victims to endure, and eliminate the risk that an innocent person can be convicted, capital punishment be abolished in Maryland; and

WHEREAS, The Commission, in its final report to the General Assembly, recommended that the savings from repealing the death penalty be used to "increase the services and resources already provided to families of victims"; and

~~WHEREAS, In 1988, the Maryland General Assembly created the State Board of Victim Services in recognition of the unique and distinctive needs of crime victims, and endeavored to ensure that all crime victims in Maryland are treated with dignity, respect, and compassion during all phases of the criminal justice process; and~~

~~WHEREAS, In 1991, under the authority of the Governor's Office of Crime Control and Prevention, the Maryland General Assembly created the Maryland Victims of Crime Fund to provide funding support for victim services whose mission is to ensure that all crime victims in Maryland receive justice and are treated with dignity and compassion through comprehensive victim services; and~~

WHEREAS, Repeal of the death penalty in Maryland will result in savings to the General Fund; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3–901 through 3–909 and the subtitle "Subtitle 9. Death Penalty Procedures" of Article – Correctional Services of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 7–201 through 7–204 and the subtitle "Subtitle 2. Proceedings After Death Sentences"; 8–108 and

11–404 of Article – Criminal Procedure of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Correctional Services

4–101.

(e) (2) "Eligible person" does not include an individual who:

(i) is serving two or more sentences of imprisonment for life under § 2–201, **FORMER** § 2–303, or § 2–304 of the Criminal Law Article;

(ii) is serving one or more sentences of imprisonment for life when a court or jury has found under **FORMER** § 2–303 of the Criminal Law Article, beyond a reasonable doubt, that one or more aggravating circumstances existed; or

(iii) has been convicted of murder in the first degree, rape in the first degree, or a sexual offense in the first degree, unless the sentencing judge, at the time of sentencing or in the exercise of the judge's revisory power under the Maryland Rules, recommends that the individual be referred to the Institution for evaluation.

4–305.

(b) (2) An inmate sentenced to life imprisonment as a result of a proceeding under **FORMER** § 2–303 or § 2–304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years when considering allowances for diminution of the inmate's period of confinement as provided under Title 3, Subtitle 7 of this article and § 6–218 of the Criminal Procedure Article.

6–112.

(c) (1) The Division shall complete a presentence investigation report in each case in which **[**the death penalty or**]** imprisonment for life without the possibility of parole is requested under **[**§ 2–202 or**]** § 2–203 of the Criminal Law Article.

(2) The report shall include a victim impact statement as provided under § 11–402 of the Criminal Procedure Article.

(3) The court or jury before which the separate sentencing proceeding is conducted under **[**§ 2–303 or**]** § 2–304 of the Criminal Law Article shall consider the report.

7–301.

(d) (2) An inmate who has been sentenced to life imprisonment as a result of a proceeding under **FORMER** § 2–303 or § 2–304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years considering the allowances for diminution of the inmate's term of confinement under § 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

7–601.

(a) On giving the notice required by the Maryland Constitution, the Governor may:

(1) **[**~~commute or change a sentence of death into a period of confinement that the Governor considers expedient~~ **CHANGE A SENTENCE OF DEATH INTO A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE**;

(2)**]** pardon an individual convicted of a crime subject to any conditions the Governor requires; or

[(3)**]** ~~**(2)**~~ remit any part of a sentence of imprisonment subject to any conditions the Governor requires, without the remission operating as a full pardon.

Article – Courts and Judicial Proceedings

3–8A–03.

(d) The court does not have jurisdiction over:

(1) A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by **[**death or**]** life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4–202 of the Criminal Procedure Article;

3–8A–06.

(a) The court may waive the exclusive jurisdiction conferred by § 3–8A–03 of this subtitle with respect to a petition alleging delinquency by:

(1) A child who is 15 years old or older; or

(2) A child who has not reached his 15th birthday, but who is charged with committing an act which if committed by an adult, would be punishable by **[**death or**]** life imprisonment.

8–404.

(a) Notwithstanding § 8–103(a) of this title, a trial judge may strike an individual who is party in a civil case while the individual is entitled to a jury trial in the county.

(b) (1) Whenever more individuals than are needed to impanel a jury have been summoned, an individual may be excused but only in accordance with rule or other law.

(2) An individual who is summoned for jury service may be struck from a particular jury only:

(i) In accordance with rule or other law, by a party on peremptory challenge;

(ii) For good cause shown, by a trial judge on a challenge by a party; or

(iii) Subject to paragraph (3) of this subsection, by a trial judge who finds that:

1. The individual may be unable to render impartial jury service;

2. The individual's service likely would disrupt the proceeding; or

3. The individual's service may threaten the secrecy of a proceeding or otherwise affect the integrity of the jury deliberations adversely.

(3) A trial judge may not strike an individual under paragraph (2)(iii)3 of this subsection, unless the judge states on the record:

(i) Each reason for the strike; and

(ii) A finding that the strike is warranted and not inconsistent with §§ 8–102(a) and (b) and 8–104 of this title.

(4) An individual struck under this subsection may serve on another jury for which the basis for the strike is irrelevant.

[(c) (1) A trial judge may strike an individual on the basis of the individual's belief for or against capital punishment only if the judge finds that the belief would prevent or substantially impair the individual from returning an impartial verdict according to law.

(2) An individual struck under this subsection may serve on another jury for which the basis for the strike is irrelevant.**]**

8–420.

(a) (1) This subsection applies only in a criminal trial in which a defendant is subject, on any single count, to**[**:

(i) A death sentence because the State has given notice of intention to seek a death sentence in accordance with § 2–202 of the Criminal Law Article; or

(ii) A**]** **A** sentence of life imprisonment, **[**including a case in which the State has not given notice of intention to seek a death sentence in accordance with § 2–202 of the Criminal Law Article but**]** excluding a common law offense for which no specific statutory penalty is provided.

(2) Each defendant is allowed 20 peremptory challenges.

(3) The State is allowed 10 peremptory challenges for each defendant.

(b) (1) This subsection applies only in a criminal trial in which a defendant is subject, on any single count, to a sentence of at least 20 years, excluding a case subject to subsection (a) of this section or a common law offense for which no specific statutory penalty is provided.

(2) Each defendant is allowed 10 peremptory challenges.

(3) The State is allowed five peremptory challenges for each defendant.

(c) In every other criminal trial, each party is allowed four peremptory challenges.

9–204.

[(a)**]** The court **[**which**]** **THAT** issued an execution on a forfeited recognizance for a witness who failed to appear may discharge the witness from execution upon motion showing good and sufficient cause for the failure.

[(b) This section does not apply in a case if capital punishment may be involved.**]**

12–307.

The Court of Appeals has:

(1) Jurisdiction to review a case or proceeding pending in or decided by the Court of Special Appeals in accordance with Subtitle 2 of this title;

(2) Jurisdiction to review a case or proceeding decided by a circuit court, in accordance with § 12–305 of this subtitle; **AND**

(3) Exclusive appellate jurisdiction with respect to a question of law certified to it under the Uniform Certification of Questions of Law Act**[**; and

(4) Exclusive appellate jurisdiction over a criminal case in which the death penalty is imposed and any appellate proceeding under § 3–904 of the Correctional Services Article**]**.

Article – Criminal Procedure

3–105.

(b) **[**Except in a capital case, on**]** **ON** consideration of the nature of the charge, the court:

(1) may require or allow the examination to be done on an outpatient basis; and

(2) if an outpatient examination is authorized, shall set bail for the defendant or authorize release of the defendant on recognizance.

3–106.

(a) **[**Except in a capital case, if**]** **IF**, after a hearing, the court finds that the defendant is incompetent to stand trial but is not dangerous, as a result of a mental disorder or mental retardation, to self or the person or property of others, the court may set bail for the defendant or authorize release of the defendant on recognizance.

3–107.

(a) Whether or not the defendant is confined and unless the State petitions the court for extraordinary cause to extend the time, the court shall dismiss the charge against a defendant found incompetent to stand trial under this subtitle:

(1) **[**when charged with a capital offense, after the expiration of 10 years;

(2)**]** when charged with a felony or a crime of violence as defined under § 14–101 of the Criminal Law Article, after the lesser of the expiration of 5 years or the maximum sentence for the most serious offense charged; or

[(3)**] (2)** when charged with an offense not covered under paragraph (1) **[**or (2)**]** of this subsection, after the lesser of the expiration of 3 years or the maximum sentence for the most serious offense charged.

4–204.

(b) Except for a sentencing proceeding under **[**§ 2–303 or**]** § 2–304 of the Criminal Law Article:

(1) the distinction between an accessory before the fact and a principal is abrogated; and

(2) an accessory before the fact may be charged, tried, convicted, and sentenced as a principal.

5–101.

(c) A defendant may not be released on personal recognizance if the defendant is charged with:

(1) a crime listed in § 5–202(d) of this title after having been convicted of a crime listed in § 5–202(d) of this title; or

(2) a crime punishable by **[**death or**]** life imprisonment without parole.

7–101.

This title applies to a person convicted in any court in the State who is:

(1) confined under sentence of **[**death or**]** imprisonment; or

(2) on parole or probation.

7–103.

(b) **[**(1)**]** Unless extraordinary cause is shown, **[**in a case in which a sentence of death has not been imposed,**]** a petition under this subtitle may not be filed more than 10 years after the sentence was imposed.

[(2) In a case in which a sentence of death has been imposed, Subtitle 2 of this title governs the time of filing a petition.**]**

7–107.

(b) (1) In a case in which a person challenges the validity of confinement under a sentence of **[**death or**]** imprisonment by seeking the writ of habeas corpus or the writ of coram nobis or by invoking a common law or statutory remedy other than this title, a person may not appeal to the Court of Appeals or the Court of Special Appeals.

(2) This subtitle does not bar an appeal to the Court of Special Appeals:

(i) in a habeas corpus proceeding begun under § 9–110 of this article; or

(ii) in any other proceeding in which a writ of habeas corpus is sought for a purpose other than to challenge the legality of a conviction of a crime or sentence of **[**death or**]** imprisonment for the conviction of the crime, including confinement as a result of a proceeding under Title 4 of the Correctional Services Article.

~~11–916.~~

~~(a) There is a State Victims of Crime Fund.~~

~~(b) (1) The Fund shall be used to pay for:~~

~~(i) carrying out Article 47 of the Maryland Declaration of Rights;~~

~~(ii) carrying out the guidelines for the treatment and assistance for victims and witnesses of crimes and delinquent acts provided in §§ 11–1002 and 11–1003 of this title;~~

~~(iii) carrying out any laws enacted to benefit victims and witnesses of crimes and delinquent acts; and~~

~~(iv) supporting child advocacy centers established under § 11–923(h) of this subtitle.~~

~~(2) The Fund may pay for the administrative costs of the Fund.~~

~~(c) The Board shall administer the Fund.~~

~~(d) Grants awarded by the Board shall be equitably distributed among all purposes of the Fund described in subsection (b) of this section.~~

~~**(E) FOR FISCAL YEAR 2015 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET SUBMISSION $500,000 FOR THE FUND, REDIRECTED FROM GENERAL FUND SAVINGS RESULTING FROM THE REPEAL OF THE DEATH PENALTY.**~~

Article – Criminal Law

2–103.

[(h) The commission of first degree murder of a viable fetus under this section, in conjunction with the commission of another first degree murder arising out of the same incident, does not constitute an aggravating circumstance subjecting a defendant to the death penalty under § 2–303(g)(ix) of this title.**]**

2–201.

(b) (1) A person who commits a murder in the first degree is guilty of a felony and on conviction shall be sentenced to:

(i) **[**death;

(ii)**]** imprisonment for life without the possibility of parole; or

[(iii)**] (II)** imprisonment for life.

(2) Unless a **[**sentence of death is imposed in compliance with § 2–202 of this subtitle and Subtitle 3 of this title, or a**]** sentence of imprisonment for life without the possibility of parole is imposed in compliance with § 2–203 of this subtitle and § 2–304 of this title, the sentence shall be imprisonment for life.

[2–202.

(a) A defendant found guilty of murder in the first degree may be sentenced to death only if:

(1) at least 30 days before trial, the State gave written notice to the defendant of:

(i) the State's intention to seek a sentence of death; and

(ii) each aggravating circumstance on which the State intends to rely;

(2) (i) with respect to § 2–303(g) of this title, except for § 2–303(g)(1)(i) and (vii) of this title, the defendant was a principal in the first degree; or

(ii) with respect to § 2–303(g)(1)(i) of this title, a law enforcement officer, as defined in § 2–303(a) of this title, was murdered and the defendant was:

1. a principal in the first degree; or

2. a principal in the second degree who:

A. willfully, deliberately, and with premeditation intended the death of the law enforcement officer;

B. was a major participant in the murder; and

C. was actually present at the time and place of the murder;

(3) the State presents the court or jury with:

(i) biological evidence or DNA evidence that links the defendant to the act of murder;

(ii) a video taped, voluntary interrogation and confession of the defendant to the murder; or

(iii) a video recording that conclusively links the defendant to the murder; and

(4) the sentence of death is imposed in accordance with § 2–303 of this title.

(b) (1) In this subsection, a defendant is "mentally retarded" if:

(i) the defendant had significantly below average intellectual functioning, as shown by an intelligence quotient of 70 or below on an individually administered intelligence quotient test and an impairment in adaptive behavior; and

(ii) the mental retardation was manifested before the age of 22 years.

(2) A defendant may not be sentenced to death, but shall be sentenced to imprisonment for life without the possibility of parole subject to the requirements of § 2–203(1) of this subtitle or imprisonment for life, if the defendant:

(i) was under the age of 18 years at the time of the murder; or

(ii) proves by a preponderance of the evidence that at the time of the murder the defendant was mentally retarded.

(c) A defendant may not be sentenced to death, but shall be sentenced to imprisonment for life without the possibility of parole subject to the requirements of § 2–203(1) of this subtitle or imprisonment for life, if the State relies solely on evidence provided by eyewitnesses.**]**

[2–301.

(a) The State's Attorney shall file with the Clerk of the Court of Appeals a copy of each:

(1) notice of intent to seek a sentence of death; and

(2) withdrawal of notice of intent to seek a sentence of death.

(b) The failure of a State's Attorney to give timely notice to the Clerk of the Court of Appeals under subsection (a)(1) of this section does not affect the validity of a notice of intent to seek a sentence of death that is served on the defendant in a timely manner.**]**

[2–303.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Correctional facility" has the meaning stated in § 1–101 of this article.

(ii) "Correctional facility" includes:

1. an institution for the confinement or detention of juveniles charged with or adjudicated as being delinquent; and

2. a hospital in which a person is confined under an order of a court exercising criminal jurisdiction.

(3) (i) "Law enforcement officer" means a law enforcement officer as defined under the Law Enforcement Officers' Bill of Rights, § 3–101 of the Public Safety Article.

(ii) "Law enforcement officer" includes:

1. a law enforcement officer of a jurisdiction outside of the State;

2. an officer serving in a probationary status;

3. a parole and probation officer; and

4. a law enforcement officer while privately employed as a security officer or special police officer under Title 3, Subtitle 3 of the Public Safety Article if the law enforcement officer is wearing the uniform worn while acting in an official capacity or is displaying prominently the officer's official badge or other insignia of office.

(b) If the State gave notice under § 2–202(a)(1) of this title, a separate sentencing proceeding shall be held as soon as practicable after a defendant is found guilty of murder in the first degree to determine whether the defendant shall be sentenced to death.

(c) The sentencing proceeding under subsection (b) of this section shall be conducted:

(1) before the jury that determined the defendant's guilt;

(2) before a jury impaneled for purposes of the proceeding if:

(i) the defendant was convicted based on a guilty plea;

(ii) the defendant was convicted after a trial by a court sitting without a jury;

(iii) the court, for good cause, discharged the jury that convicted the defendant; or

(iv) a court of competent jurisdiction remanded the case for resentencing following a review of the original sentence of death; or

(3) before the court, if the defendant waives a jury sentencing proceeding.

(d) (1) A judge shall appoint at least two alternate jurors when impaneling a jury for any proceeding:

(i) in which the defendant is being tried for a crime for which the death penalty may be imposed; or

(ii) that is held under this section.

(2) The alternate jurors shall be retained throughout the proceedings under any restrictions that the judge imposes.

(3) Subject to paragraph (4) of this subsection, if a juror dies, is disqualified, becomes incapacitated, or is discharged for any other reason before the

jury begins its deliberations on sentencing, an alternate juror becomes a juror in the order selected, and serves in all respects as a juror selected on the regular trial panel.

(4) An alternate juror may not replace a juror who is discharged during the actual deliberations of the jury on the guilt or innocence of the defendant or on sentencing.

(e) (1) The following type of evidence is admissible in a sentencing proceeding:

(i) evidence relating to a mitigating circumstance that is listed under subsection (h) of this section;

(ii) evidence relating to an aggravating circumstance:

1. that is listed under subsection (g) of this section; and

2. of which the State provided notice under § 2–202(a)(1)(ii) of this title;

(iii) evidence of a prior criminal conviction, guilty plea, plea of nolo contendere, or the absence of any prior convictions or pleas, to the same extent that the evidence would be admissible in other sentencing procedures;

(iv) subject to paragraph (2) of this subsection, any presentence investigation report; and

(v) any other evidence the court finds to have probative value and relevance to sentencing, if the defendant has a fair opportunity to rebut any statement.

(2) A recommendation in a presentence investigation report as to a sentence is not admissible in a sentencing proceeding.

(3) The State and the defendant or counsel for the defendant may present argument for or against the sentence of death.

(f) (1) After the evidence is presented to the jury in the sentencing proceeding, the court shall:

(i) give any appropriate instructions allowed by law; and

(ii) instruct the jury as to:

1. the findings that the jury must make to determine whether the defendant shall be sentenced to death, imprisonment for life without the possibility of parole, or imprisonment for life; and

2. the burden of proof applicable to the findings under subsection (g)(2) or (i)(1) and (2) of this section.

(2) The court may not instruct the jury that the jury is to assume that a sentence of life imprisonment is for the natural life of the defendant.

(g) (1) In determining a sentence under subsection (b) of this section, the court or jury first shall consider whether any of the following aggravating circumstances exists beyond a reasonable doubt:

(i) one or more persons committed the murder of a law enforcement officer while the officer was performing the officer's duties;

(ii) the defendant committed the murder while confined in a correctional facility;

(iii) the defendant committed the murder in furtherance of an escape from, an attempt to escape from, or an attempt to evade lawful arrest, custody, or detention by:

1. a guard or officer of a correctional facility; or

2. a law enforcement officer;

(iv) the victim was taken or attempted to be taken in the course of an abduction, kidnapping, or an attempt to abduct or kidnap;

(v) the victim was a child abducted in violation of § 3–503(a)(1) of this article;

(vi) the defendant committed the murder under an agreement or contract for remuneration or promise of remuneration to commit the murder;

(vii) the defendant employed or engaged another to commit the murder and the murder was committed under an agreement or contract for remuneration or promise of remuneration;

(viii) the defendant committed the murder while under a sentence of death or imprisonment for life;

(ix) the defendant committed more than one murder in the first degree arising out of the same incident; or

(x) the defendant committed the murder while committing, or attempting to commit:

1. arson in the first degree;

2. carjacking or armed carjacking;

3. rape in the first degree;

4. robbery under § 3–402 or § 3–403 of this article; or

5. sexual offense in the first degree.

(2) If the court or jury does not find that one or more of the aggravating circumstances exist beyond a reasonable doubt:

(i) it shall state that conclusion in writing; and

(ii) a death sentence may not be imposed.

(h) (1) In this subsection, "crime of violence" means:

(i) abduction;

(ii) arson in the first degree;

(iii) carjacking or armed carjacking;

(iv) escape in the first degree;

(v) kidnapping;

(vi) mayhem;

(vii) murder;

(viii) rape in the first or second degree;

(ix) robbery under § 3–402 or § 3–403 of this article;

(x) sexual offense in the first or second degree;

(xi) manslaughter other than involuntary manslaughter;

(xii) an attempt to commit any crime listed in items (i) through (xi) of this paragraph; or

(xiii) the use of a handgun in the commission of a felony or other crime of violence.

(2) If the court or jury finds beyond a reasonable doubt that one or more of the aggravating circumstances under subsection (g) of this section exists, it then shall consider whether any of the following mitigating circumstances exists based on a preponderance of the evidence:

(i) the defendant previously has not:

1. been found guilty of a crime of violence;

2. entered a guilty plea or a plea of nolo contendere to a charge of a crime of violence; or

3. received probation before judgment for a crime of violence;

(ii) the victim was a participant in the conduct of the defendant or consented to the act that caused the victim's death;

(iii) the defendant acted under substantial duress, domination, or provocation of another, but not so substantial as to constitute a complete defense to the prosecution;

(iv) the murder was committed while the capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired due to emotional disturbance, mental disorder, or mental incapacity;

(v) the defendant was of a youthful age at the time of the murder;

(vi) the act of the defendant was not the sole proximate cause of the victim's death;

(vii) it is unlikely that the defendant will engage in further criminal activity that would be a continuing threat to society; or

(viii) any other fact that the court or jury specifically sets forth in writing as a mitigating circumstance in the case.

(i) (1) If the court or jury finds that one or more of the mitigating circumstances under subsection (h) of this section exists, it shall determine by a preponderance of the evidence whether the aggravating circumstances under subsection (g) of this section outweigh the mitigating circumstances.

(2) If the court or jury finds that the aggravating circumstances:

(i) outweigh the mitigating circumstances, a death sentence shall be imposed; or

(ii) do not outweigh the mitigating circumstances, a death sentence may not be imposed.

(3) If the determination is by a jury, a decision to impose a death sentence must be unanimous and shall be signed by the jury foreperson.

(4) A court or jury shall put its determination in writing and shall state specifically:

(i) each aggravating circumstance found;

(ii) each mitigating circumstance found;

(iii) whether any aggravating circumstances found under subsection (g) of this section outweigh the mitigating circumstances found under subsection (h) of this section;

(iv) whether the aggravating circumstances found under subsection (g) of this section do not outweigh the mitigating circumstances found under subsection (h) of this section; and

(v) the sentence determined under subsection (g)(2) of this section or paragraphs (1) and (2) of this subsection.

(j) (1) If a jury determines that a death sentence shall be imposed under the provisions of this section, the court shall impose a death sentence.

(2) If, within a reasonable time, the jury is unable to agree as to whether a death sentence shall be imposed, the court may not impose a death sentence.

(3) If the sentencing proceeding is conducted before a court without a jury, the court shall determine whether a death sentence shall be imposed under the provisions of this section.

(4) If the court or jury determines that a death sentence may not be imposed and the State gave notice under § 2–203(1) of this title, a determination shall be made concerning imprisonment for life without the possibility of parole under § 2–304 of this subtitle.

(5) If the court or jury determines that a death sentence may not be imposed and if the State did not give notice under § 2–203(1) of this title, the court shall impose a sentence of imprisonment for life.

(k) (1) Immediately after the imposition of a death sentence:

(i) the clerk of the court in which sentence is imposed, if different from the court where the indictment or information was filed, shall certify the proceedings to the clerk of the court where the indictment or information was filed; and

(ii) the clerk of the court where the indictment or information was filed shall copy the docket entries in the inmate's case, sign the copies, and deliver them to the Governor.

(2) The docket entries shall show fully the sentence of the court and the date that the sentence was entered.

(l) If the defendant is sentenced to death, the court before which the defendant is tried and convicted shall sentence the defendant to death by intravenous administration of a lethal quantity of an ultrashort–acting barbiturate or other similar drug in combination with a chemical paralytic agent.**]**

2–304.

(a) **[**(1)**]** If the State gave notice under § 2–203(1) of this title, **[**but did not give notice of intent to seek the death penalty under § 2–202(a)(1) of this title,**]** the court shall conduct a separate sentencing proceeding as soon as practicable after the defendant is found guilty of murder in the first degree to determine whether the defendant shall be sentenced to imprisonment for life without the possibility of parole or to imprisonment for life.

[(2) If the State gave notice under both §§ 2–202(a)(1) and 2–203(1) of this title, but the court or jury determines that the death sentence may not be imposed, that court or jury shall determine whether the defendant shall be sentenced to imprisonment for life without the possibility of parole or to imprisonment for life.**]**

2–305.

The Court of Appeals may adopt:

(1) rules of procedure to govern the conduct of sentencing proceedings under **[**§§ 2–303 and 2–304**]** **§ 2–304** of this subtitle; and

(2) forms for a court or jury to use in making written findings and sentence determinations.

[Subtitle 4. Review by Court of Appeals.**]**

[2–401.

(a) (1) After a death sentence is imposed and the judgment becomes final, the Court of Appeals shall review the sentence on the record.

(2) The Court of Appeals shall consolidate an appeal from the verdict with the sentence review.

(b) The clerk of the trial court shall send to the Clerk of the Court of Appeals:

(1) the entire record and the transcript of the sentencing proceeding within 10 days after receiving the transcript;

(2) the determination and written findings of the court or jury; and

(3) a report of the trial court that:

(i) is in the form of a standard questionnaire supplied by the Court of Appeals; and

(ii) includes a recommendation by the trial court as to whether the death sentence is justified.

(c) The defendant and the State may submit briefs and present oral arguments to the Court of Appeals within the time allowed by the Court.

(d) (1) In addition to any error properly before the Court on appeal, the Court of Appeals shall consider the imposition of the death sentence.

(2) With regard to the death sentence, the Court of Appeals shall determine whether:

(i) the imposition of the death sentence was influenced by passion, prejudice, or any other arbitrary factor;

(ii) the evidence supports the finding by the court or jury of a statutory aggravating circumstance under § 2–303(g) of this title; and

(iii) the evidence supports a finding by the court or jury that the aggravating circumstances outweigh the mitigating circumstances under § 2–303(h) and (i)(1) of this title.

(3) In addition to its review under any direct appeal, with regard to the death sentence, the Court of Appeals shall:

(i) affirm the death sentence;

(ii) set the death sentence aside and remand the case for a new sentencing proceeding under § 2–303 of this title; or

(iii) set the death sentence aside and remand the case for modification of the sentence to imprisonment for life.

(e) The Court of Appeals may adopt rules of procedure for the expedited review of death sentences under this section.**]**

14–101.

(a) In this section, "crime of violence" means:

(1) abduction;

(2) arson in the first degree;

(3) kidnapping;

(4) manslaughter, except involuntary manslaughter;

(5) mayhem;

(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;

(7) murder;

(8) rape;

(9) robbery under § 3–402 or § 3–403 of this article;

(10) carjacking;

(11) armed carjacking;

(12) sexual offense in the first degree;

(13) sexual offense in the second degree;

(14) use of a handgun in the commission of a felony or other crime of violence;

(15) child abuse in the first degree under § 3–601 of this article;

(16) sexual abuse of a minor under § 3–602 of this article if:

(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and

(ii) the offense involved:

1. vaginal intercourse, as defined in § 3–301 of this article;

2. a sexual act, as defined in § 3–301 of this article;

3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or

4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

(17) an attempt to commit any of the crimes described in items (1) through (16) of this subsection;

(18) continuing course of conduct with a child under § 3–315 of this article;

(19) assault in the first degree;

(20) assault with intent to murder;

(21) assault with intent to rape;

(22) assault with intent to rob;

(23) assault with intent to commit a sexual offense in the first degree; and

(24) assault with intent to commit a sexual offense in the second degree.

(b) **[**This section does not apply if a person is sentenced to death.

(c)**]** (1) Except as provided in subsection **[**(g)**] (F)** of this section, on conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence shall be sentenced to life imprisonment without the possibility of parole.

(2) Notwithstanding any other law, the provisions of this subsection are mandatory.

[(d)**] (C)** (1) Except as provided in subsection **[**(g)**] (F)** of this section, on conviction for a third time of a crime of violence, a person shall be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person:

(i) has been convicted of a crime of violence on two prior separate occasions:

1. in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion; and

2. for which the convictions do not arise from a single incident; and

(ii) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.

(2) The court may not suspend all or part of the mandatory 25–year sentence required under this subsection.

(3) A person sentenced under this subsection is not eligible for parole except in accordance with the provisions of § 4–305 of the Correctional Services Article.

[(e)**] (D)** (1) On conviction for a second time of a crime of violence committed on or after October 1, 1994, a person shall be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:

(i) has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and

(ii) served a term of confinement in a correctional facility for that conviction.

(2) The court may not suspend all or part of the mandatory 10–year sentence required under this subsection.

[(f)**] (E)** If the State intends to proceed against a person as a subsequent offender under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

[(g)**] (F)** (1) A person sentenced under this section may petition for and be granted parole if the person:

(i) is at least 65 years old; and

(ii) has served at least 15 years of the sentence imposed under this section.

(2) The Maryland Parole Commission shall adopt regulations to implement this subsection.

Article – Health – General

8–505.

(b) **[**Except in a capital case, on**]** **ON** consideration of the nature of the charge, the court:

(1) May require or permit an examination to be conducted on an outpatient basis; and

(2) If an outpatient examination is authorized, shall set bail for the defendant or authorize the release of the defendant on personal recognizance.

Article – Transportation

16–812.

(a) The Administration shall disqualify any individual from driving a commercial motor vehicle for a period of 1 year if:

(1) The individual is convicted of committing any of the following offenses while driving a commercial motor vehicle:

(i) A violation of § 21–902 of this article;

(ii) A violation of a federal law or any other state's law which is substantially similar in nature to the provisions in § 21–902 of this article;

(iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation;

(iv) A crime, other than a crime described in subsection (e) of this section, that is punishable by **[**death or**]** imprisonment for a term exceeding 1 year;

(v) A violation of § 25–112 of this article; or

(vi) A violation of § 2–209, § 2–503, § 2–504, § 2–505, or § 2–506 of the Criminal Law Article**[**.**]****;**

(2) The individual holds a commercial driver's license and is convicted of committing any of the following offenses while driving a noncommercial motor vehicle:

(i) A violation of § 21–902(a), (c), or (d) of this article;

(ii) A violation of a federal law or any other state's law which is substantially similar in nature to the provisions in § 21–902(a), (c), or (d) of this article;

(iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation; or

(iv) A crime, other than a crime described in subsection (e) of this section, that is punishable by **[**death or**]** imprisonment for a term exceeding 1 year;

(3) The individual, while driving a commercial motor vehicle or while holding a commercial driver's license, refuses to undergo testing as provided in § 16–205.1 of this title or as is required by any other state's law or by federal law in the enforcement of 49 C.F.R. § 383.51 Table 1, or 49 C.F.R. § 392.5(a)(2);

(4) The individual drives or attempts to drive a commercial motor vehicle while the alcohol concentration of the person's blood or breath is 0.04 or greater; or

(5) The individual drives a commercial motor vehicle when, as a result of prior violations committed while driving a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled or the driver is disqualified from driving a commercial motor vehicle.

SECTION 4. AND BE IT FURTHER ENACTED, That in any case in which the State has properly filed notice that it intended to seek a sentence of death under § 2–202 of the Criminal Law Article in which a sentence has not been imposed, the notice of intention to seek a sentence of death shall be considered to have been withdrawn and it shall be deemed that the State properly filed notice under § 2–203 of the Criminal Law Article to seek a sentence of life imprisonment without the possibility of parole.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 157

(Senate Bill 279)

AN ACT concerning

Election Law – Improving Access to Voting

~~FOR the purpose of providing an exception to the voter registration deadline to allow an individual to register to vote or update an existing voter registration address and vote during early voting; requiring proof of residency to register or update an existing voter registration address during early voting; providing the types of acceptable proof; requiring the State Board of Elections to adopt regulations and establish procedures for the administration of voter registration during early voting; providing for certain methods of requesting an absentee ballot, including through the use of an accessible online application; requiring a local board of elections to provide a voter with an absentee ballot in the manner requested by the voter; requiring the State Board to provide an accessible optional online ballot marking tool; specifying certain certification requirements for the ballot marking tool; authorizing an absentee ballot to be sent by the Internet or facsimile transmission and requiring certain information to be provided with the ballot; altering the number of early voting centers for a county with a certain number of registered voters; altering the dates and times for early voting during certain elections; providing for a delayed effective date for certain provisions of this Act; requiring the State Board of Elections to review and conduct a certain analysis and submit a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to election law and improving access to voting.~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Election Law~~
~~Section 3–204.1(b), 3–302, 9–305, 9–306, 9–308, 9–310, and 10–301.1~~
~~Annotated Code of Maryland~~
~~(2010 Replacement Volume and 2012 Supplement)~~

~~BY adding to~~
~~Article – Election Law~~
~~Section 3–305~~
~~Annotated Code of Maryland~~
~~(2010 Replacement Volume and 2012 Supplement)~~

FOR the purpose of requiring an individual who applies to register to vote or update an existing voter registration online to provide certain information; providing an exception to the voter registration deadline to allow an individual to register to vote or update an existing voter registration address and vote during early voting; requiring proof of residency to register or update an existing voter registration address during early voting; providing the types of acceptable proof;

requiring the State Board of Elections to adopt regulations and establish procedures for the administration of voter registration during early voting; providing for certain methods of requesting an absentee ballot, including through the use of an accessible online application; requiring an individual who requests an absentee ballot online to provide certain information; requiring a local board of elections to provide a voter with an absentee ballot in the manner requested by the voter; authorizing the State Board to provide an accessible optional online ballot marking tool; specifying certain certification requirements for the ballot marking tool; requiring a local board to follow certain procedures during the canvass of votes cast using an online ballot marking tool; authorizing an absentee ballot to be sent by the Internet or facsimile transmission and requiring certain information to be provided with the ballot; altering the number of early voting centers for a county with a certain number of registered voters; altering the dates and times for early voting during certain elections; increasing the amount of a certain fine that may be imposed for certain violations of election law; requiring the State Board to conduct a certain analysis of extending the early voting period and submit the analysis to certain committees of the General Assembly on or before a certain date; requiring the State Board to review and conduct an analysis of wait times at polling places and submit a certain report to certain committees of the General Assembly on or before a certain date; requiring the State Board to conduct a certain usability and accessibility evaluation of an online ballot marking tool and submit a certain report to certain committees of the General Assembly on or before a certain date; requiring the State Board to engage an independent consultant to study and make recommendations on improving the security of certain technology used in the conduct of elections; requiring the independent consultant to submit a certain report to certain committees of the General Assembly on or before a certain date; defining a certain term; providing for a delayed effective date for certain provisions of this Act; and generally relating to election law and improving access to voting.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–204.1, 3–302, 9–305, 9–306, 9–310, 10–301.1, and 16–201
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Election Law
Section 3–305 and 9–308.1
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~**Article – Election Law**~~

~~3–302.~~

~~(a)~~ **[**~~Registration~~**]** ~~**EXCEPT AS PROVIDED UNDER § 3–305 OF THIS SUBTITLE, REGISTRATION**~~ ~~is closed beginning at 9 p.m. on the 21st day preceding an election until the 11th day after that election.~~

~~(b) A voter registration application received when registration is closed shall be accepted and retained by a local board, but the registration of the applicant does not become effective until registration reopens.~~

~~(c) A voter registration application that is received by the local board after the close of registration shall be considered timely received for the next election provided:~~

~~(1) there is sufficient evidence, as determined by the local board pursuant to regulations adopted by the State Board, that the application was mailed on or before registration was closed for that election; or~~

~~(2) the application was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board prior to the close of registration.~~

~~**3–305.**~~

~~**(A) DURING EARLY VOTING, AN INDIVIDUAL MAY APPEAR IN PERSON AT AN EARLY VOTING CENTER IN THE INDIVIDUAL'S COUNTY OF RESIDENCE AND APPLY TO REGISTER TO VOTE OR CHANGE THE VOTER'S ADDRESS ON AN EXISTING VOTER REGISTRATION.**~~

~~**(B) (1) WHEN APPLYING TO REGISTER TO VOTE OR CHANGE AN ADDRESS ON AN EXISTING REGISTRATION DURING EARLY VOTING, THE APPLICANT SHALL PROVIDE PROOF OF RESIDENCY.**~~

~~**(2) THE APPLICANT SHALL PROVE RESIDENCY BY SHOWING THE ELECTION JUDGE:**~~

~~**(I) A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD THAT CONTAINS THE APPLICANT'S CURRENT ADDRESS; OR**~~

~~**(II) IF THE APPLICANT DOES NOT HAVE A DRIVER'S LICENSE OR IDENTIFICATION CARD THAT CONTAINS THE APPLICANT'S CURRENT ADDRESS, A COPY OF AN OFFICIAL DOCUMENT THAT:**~~

~~1. MEETS THE REQUIREMENTS ESTABLISHED BY THE STATE BOARD; AND~~

~~2. CONTAINS THE APPLICANT'S NAME AND CURRENT ADDRESS.~~

~~(C) (1) WHEN AN INDIVIDUAL APPLIES TO REGISTER TO VOTE AT AN EARLY VOTING CENTER, THE ELECTION JUDGE SHALL DETERMINE WHETHER THE APPLICANT RESIDES IN THE COUNTY IN WHICH THE APPLICANT APPLIED AND IS QUALIFIED TO BECOME A REGISTERED VOTER.~~

~~(2) IF THE VOTER IS A RESIDENT OF THE COUNTY AND IS QUALIFIED TO REGISTER TO VOTE, THE ELECTION JUDGE SHALL:~~

~~(I) ISSUE THE VOTER A VOTING AUTHORITY CARD;~~

~~(II) HAVE THE VOTER SIGN THE VOTER AUTHORITY CARD; AND~~

~~(III) ISSUE THE VOTER A BALLOT.~~

~~(D) (1) WHEN A VOTER APPLIES TO CHANGE THE VOTER'S ADDRESS DURING EARLY VOTING, THE ELECTION JUDGE SHALL DETERMINE WHETHER THE VOTER RESIDES IN THE COUNTY IN WHICH THE VOTER SEEKS TO VOTE.~~

~~(2) IF THE VOTER IS A RESIDENT OF THE COUNTY, THE ELECTION JUDGE SHALL:~~

~~(I) ISSUE THE VOTER A VOTING AUTHORITY CARD;~~

~~(II) HAVE THE VOTER SIGN THE VOTER AUTHORITY CARD; AND~~

~~(III) ISSUE THE VOTER THE APPROPRIATE BALLOT FOR THE VOTER'S NEW ADDRESS.~~

~~(E) THE STATE BOARD SHALL ADOPT REGULATIONS AND PROCEDURES IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION FOR THE ADMINISTRATION OF VOTER REGISTRATION DURING EARLY VOTING.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Election Law**~~

~~3–204.1.~~

~~(b) To apply to register to vote through the online voter registration system, an individual shall:~~

~~(1) complete the electronic voter registration application;~~

~~(2) affirmatively attest, subject to the penalties of perjury, that the information contained in the voter registration application is true and that the applicant meets all of the qualifications to become a registered voter;~~

~~(3) provide one of the following:~~

~~(i) a Maryland driver's license number or Maryland identification card number **AND THE LAST FOUR DIGITS OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER OR OTHER INFORMATION IDENTIFIED BY THE STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY AVAILABLE TO THE INDIVIDUAL**; or~~

~~(ii) if the individual is an absent uniformed services voter or overseas voter as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number; and~~

~~(4) affirmatively consent to the use of one of the following as the individual's signature for the application being submitted:~~

~~(i) the electronic copy of the individual's signature that is on file with the Motor Vehicle Administration; or~~

~~(ii) the individual's Social Security number.~~

~~9–305.~~

~~(a) **[**An application for**] A VOTER MAY REQUEST** an absentee ballot**[**, signed by the voter, may be made**] BY COMPLETING AND SUBMITTING:~~

~~(1) **[**on a form produced by the local board and supplied to the voter**] THE STATE BOARD APPROVED ABSENTEE BALLOT APPLICATION**;~~

~~(2) **[**on**]** a form provided under federal law; **[**or**]**~~

~~(3) **[**in**]** a written request that includes:~~

~~(i) the voter's name **[**and**], residence address, AND SIGNATURE**; and~~

~~(ii) the address to which the ballot is to be mailed, if different from the residence address~~**~~; OR~~**

~~**(4) AS SPECIFIED IN SUBSECTION (C) OF THIS SECTION, THE ACCESSIBLE ONLINE ABSENTEE BALLOT APPLICATION PROVIDED BY THE STATE BOARD.**~~

~~(b)~~ **[**~~Except for a late application under subsection (c) of this section, an~~**] AN** ~~application for an absentee ballot must be received by a local board~~**:**

~~**(1) IF THE VOTER REQUESTS THE ABSENTEE BALLOT BE SENT BY MAIL OR FACSIMILE TRANSMISSION,** not later than the Tuesday preceding the election, at the time specified in the guidelines~~**;**

~~**(2) IF THE VOTER REQUESTS THE ABSENTEE BALLOT BE SENT BY THE INTERNET, NOT LATER THAN THE FRIDAY PRECEDING THE ELECTION, AT THE TIME SPECIFIED IN THE GUIDELINES; OR**~~

~~**(3) IF THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT APPLIES FOR AN ABSENTEE BALLOT IN PERSON AT THE LOCAL BOARD OFFICE, NOT LATER THAN THE CLOSING OF THE POLLS ON ELECTION DAY.**~~

[~~(c) (1) Beginning on the Wednesday preceding the election, through the closing of the polls on election day, a registered voter or the voter's duly authorized agent may apply in person for an absentee ballot at the office of the local board.~~

~~(2) A special application for an absentee ballot issued under this subsection shall be supplied by the staff of the local board to the voter or the voter's duly authorized agent.~~

~~(3) The application shall be made under penalty of perjury but without a formal oath.~~

~~(4) After review of the application, the staff shall issue an absentee ballot to the voter or the voter's duly authorized agent.~~**]**

~~**(C) THE ONLINE ABSENTEE BALLOT APPLICATION PROVIDED BY THE STATE BOARD SHALL REQUIRE THE APPLICANT TO PROVIDE:**~~

~~**(1) A MARYLAND DRIVER'S LICENSE NUMBER OR MARYLAND IDENTIFICATION CARD NUMBER AND THE LAST FOUR DIGITS OF THE APPLICANT'S SOCIAL SECURITY NUMBER OR OTHER INFORMATION IDENTIFIED BY THE STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY AVAILABLE TO THE APPLICANT; OR**~~

~~**(2) IF THE APPLICANT IS AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AND DOES NOT HAVE A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, A SOCIAL SECURITY NUMBER.**~~

~~9–306.~~

~~(a) Promptly after receipt of an application, the election director shall review the application and determine whether the applicant qualifies to vote by absentee ballot.~~

~~(b) If the applicant qualifies to vote by absentee ballot, the local board shall [send] PROVIDE the ballot BY ONE OF THE FOLLOWING METHODS REQUESTED BY THE VOTER:~~

~~**(1) MAIL;**~~

~~**(2) FACSIMILE TRANSMISSION;**~~

~~**(3) THE INTERNET; OR**~~

~~**(4) BY HAND DURING AN IN–PERSON TRANSACTION.**~~

~~**(C) ONCE BALLOTS ARE AVAILABLE, THE LOCAL BOARD SHALL PROVIDE THE BALLOT TO A QUALIFIED APPLICANT:**~~

~~(1) as soon as practicable after receipt of the request; or~~

~~(2) [if the ballots have not been received from the printer, as soon as practicable after the local board receives delivery of the ballots] IMMEDIATELY FOR AN IN–PERSON TRANSACTION WITH A VOTER OR THE VOTER'S DULY AUTHORIZED AGENT.~~

~~[(c)] (D) (1) If the members of the local board determine that the applicant is not entitled to vote by absentee ballot, the local board shall notify the applicant as soon as practicable after receipt of the application of the reasons for the rejection.~~

~~(2) (i) The local board may delegate the determination under paragraph (1) of this subsection to the staff of the local board.~~

~~(ii) If the determination has been delegated, the applicant may appeal the rejection to the members of the local board, who shall decide the appeal as expeditiously as practicable.~~

~~[(d)] (E) Not more than one absentee ballot may be issued to a voter unless the election director of the local board has reasonable grounds to believe that an absentee ballot previously issued to the voter has been lost, destroyed, or spoiled.~~

~~9–308.~~

~~(a) A voter who requires assistance in casting an absentee ballot by reason of disability, inability to write, or inability to read the ballot may be assisted by any individual other than:~~

~~(1) a candidate who is on that ballot;~~

~~(2) the voter's employer or an agent of the employer; or~~

~~(3) an officer or agent of the voter's union.~~

~~(b) An individual rendering assistance under this section shall execute a certification as prescribed by the State Board and included in the instructions under § 9–309 of this subtitle.~~

~~(C) (1) THE STATE BOARD SHALL PROVIDE AN ACCESSIBLE OPTIONAL ONLINE BALLOT MARKING TOOL FOR A VOTER WHO REQUESTED TO HAVE THE ABSENTEE BALLOT SENT BY THE INTERNET.~~

~~(2) (I) THE STATE BOARD SHALL CERTIFY THE ONLINE BALLOT MARKING TOOL IN ACCORDANCE WITH THE APPLICABLE CERTIFICATION STANDARDS UNDER § 9–102(D) OF THIS TITLE.~~

~~(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, § 9–102(D)(2) OF THIS TITLE IS NOT APPLICABLE TO THE STATE BOARD'S CERTIFICATION DETERMINATION IF THE U.S. ELECTION ASSISTANCE COMMISSION HAS NOT APPROVED SPECIFIC PERFORMANCE AND TEST STANDARDS FOR ONLINE BALLOT MARKING TOOLS.~~

~~9–310.~~

~~(a) (1) THIS SUBSECTION APPLIES ONLY TO AN ABSENTEE BALLOT THAT IS SENT BY MAIL.~~

~~(2) An absentee ballot shall be enclosed in specially printed envelopes, the form and content of which shall be prescribed by the State Board.~~

~~[(b) (1)] (3) (I) A local board may use either two envelopes or three envelopes.~~

~~[(2)] (II) If two envelopes are used, the inner envelope shall be designated the "ballot/return envelope", and, when issued, it shall fit inside the envelope designated the "outgoing envelope".~~

~~[(3)] (III) If three envelopes are used, the innermost envelope shall be designated the "ballot envelope", which shall fit inside the envelope designated the "return envelope", both of which, when issued, shall fit inside the envelope designated the "outgoing envelope".~~

~~[(c)] (4) When voted and returned to the local board, an absentee ballot shall be enclosed in a ballot envelope or ballot/return envelope, on which has been printed an oath prescribed by the State Board.~~

~~(B) IF AN ABSENTEE BALLOT IS SENT BY THE INTERNET OR FACSIMILE TRANSMISSION, THE LOCAL BOARD SHALL PROVIDE THE VOTER WITH AN ENVELOPE TEMPLATE, THE OATH PRESCRIBED BY THE STATE BOARD, AND INSTRUCTIONS FOR MARKING AND RETURNING THE ABSENTEE BALLOT.~~

~~10–301.1.~~

~~(a) Except as provided under Title 9, Subtitle 3 of this article, during any regularly scheduled primary or general election a voter may vote:~~

~~(1) in the voter's assigned precinct on election day; or~~

~~(2) at an early voting center in the voter's county of residence on any early voting day in accordance with this section.~~

~~(b) (1) Each county shall have at least one early voting center established in the county as prescribed in this subsection.~~

~~(2) A county with fewer than [150,000] 125,000 registered voters shall have one early voting center established in the county, BUT IF THE COUNTY ENCOMPASSES A GEOGRAPHIC AREA LARGER THAN 400 SQUARE MILES, THE COUNTY MAY ESTABLISH ONE ADDITIONAL EARLY VOTING CENTER IN THE COUNTY.~~

~~(3) A county with more than [150,000] 125,000 REGISTERED VOTERS but fewer than 300,000 registered voters shall have three early voting centers established in the county.~~

~~(4) A county with more than 300,000 registered voters **BUT FEWER THAN 450,000 REGISTERED VOTERS** shall have five early voting centers established in the county.~~

~~**(5) A COUNTY WITH MORE THAN 450,000 REGISTERED VOTERS SHALL HAVE EIGHT EARLY VOTING CENTERS.**~~

~~(c) No later than 6 months before a primary election, the State Board, in collaboration with the local board in each county, shall designate each early voting center in that county.~~

~~(d) Each early voting center shall be open for voting as follows:~~

~~**[**(1) for the 2010 gubernatorial primary and general elections:~~

~~(i) beginning the second Friday before a primary or general election through the Thursday before the elections, but excluding Sunday; and~~

~~(ii) during the hours between 10 a.m. and 8 p.m.; and~~

~~(2) for the 2012 presidential primary and general elections:~~

~~(i) beginning the second Saturday before a primary or general election through the Thursday before the elections; and~~

~~(ii) 1. during the hours between 10 a.m. and 8 p.m. on the Saturday and the Monday through the Thursday during the early voting period; and~~

~~2. during the hours between 12 noon and 6 p.m. on the Sunday during the early voting period.**]**~~

~~**(1) BEGINNING THE SECOND THURSDAY BEFORE A PRIMARY OR GENERAL ELECTION THROUGH THE THURSDAY BEFORE THE ELECTION; AND**~~

~~**(2) DURING THE FOLLOWING HOURS:**~~

~~**(I) IN A PRESIDENTIAL GENERAL ELECTION, DURING THE HOURS BETWEEN 8 A.M. AND 8 P.M. EACH EARLY VOTING DAY; AND**~~

~~**(II) IN ALL OTHER ELECTIONS, DURING THE HOURS BETWEEN 10 A.M. AND 8 P.M. EACH EARLY VOTING DAY.**~~

~~(e) Each early voting center shall satisfy the requirements of § 10–101 of this title.~~

~~(f) Beginning 30 days prior to each early voting period the State Board and each local board shall undertake steps to inform the public about early voting and the location of early voting centers in each county, including:~~

~~(1) a series of public service media announcements;~~

~~(2) mailings to all registered voters in each county; and~~

~~(3) other measures as appropriate.~~

~~(g) Except as expressly provided in this section, any provision of this article that applies to voting on election day also applies to early voting.~~

~~(h) The State Board shall adopt regulations and guidelines in accordance with the requirements of this section for the conduct of early voting.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the State Board of Elections shall:~~

~~(1) (i) review the maximum wait times for Maryland voters in the 2010 and 2012 primary and general elections and identify the causes for wait times of more than 30 minutes; and~~

~~(ii) propose target maximum wait times for voters at early voting centers and polling places at primary and general elections in the State;~~

~~(2) review and conduct a detailed analysis concerning the deployment of voting equipment and related infrastructure and the staffing practices and procedures utilized by local boards of election at early voting centers during the early voting period and at polling places on election day to determine what adjustments could be implemented to reduce the maximum wait times at early voting centers during the early voting period and polling places on election day to 30 minutes or, alternatively, to 60 minutes;~~

~~(3) if it determines that additional voting equipment and related infrastructure and staff are needed to reduce the maximum wait times at early voting centers during the early voting period and polling places on election day to 30 minutes or, alternatively, to 60 minutes, provide an estimate of the fiscal costs of implementing each of those standards; and~~

~~(4) on or before December 31, 2013, submit a report of its findings and recommendations to the Senate Education, Health, Environmental Affairs Committee and the House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2016.~~

~~SECTION 2. 4. 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 3-4 of this Act, this Act shall take effect July 1, 2013.~~

Article – Election Law

3–204.1.

(a) The State Board may operate an online voter registration system that allows an individual to electronically:

(1) apply to become a registered voter; or

(2) change the individual's name, address, or party affiliation in the individual's existing voter registration record.

(b) To apply to register to vote through the online voter registration system, an individual shall:

(1) complete the electronic voter registration application;

(2) affirmatively attest, subject to the penalties of perjury, that the information contained in the voter registration application is true and that the applicant meets all of the qualifications to become a registered voter;

(3) provide one of the following:

*(i) a Maryland driver's license number or Maryland identification card number**, THE LAST FOUR DIGITS OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER, AND OTHER INFORMATION IDENTIFIED BY THE STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY AVAILABLE TO THE INDIVIDUAL**; or*

(ii) if the individual is an absent uniformed services voter or overseas voter as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number; and

(4) affirmatively consent to the use of one of the following as the individual's signature for the application being submitted:

(i) the electronic copy of the individual's signature that is on file with the Motor Vehicle Administration; or

(ii) the individual's Social Security number.

(c) To change an individual's name, address, or party affiliation in the individual's existing voter registration record, an individual shall:

(1) complete the electronic voter registration application;

(2) affirmatively attest, subject to the penalties of perjury, that the information contained in the voter registration application is true and that the applicant meets all of the qualifications to be a registered voter;

(3) provide one of the following:

*(i) a Maryland driver's license number or Maryland identification card number***, THE LAST FOUR DIGITS OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER, AND OTHER INFORMATION IDENTIFIED BY THE STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY AVAILABLE TO THE INDIVIDUAL; OR***

(ii) ***[****a Maryland voter identification number on the individual's voter notification card; or*

*(iii)****]*** *if the individual is an absent uniformed services voter or overseas voter as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number; and*

(4) affirmatively consent to the use of one of the following as the individual's signature for the application being submitted:

(i) the electronic copy of the individual's signature that is on file with the Motor Vehicle Administration; ***OR***

(ii) ***[****the electronic copy of the individual's signature that is on file in the statewide voter registration list; or*

*(iii)****]*** *the individual's Social Security number.*

(d) The Motor Vehicle Administration shall transmit an electronic copy of an individual's driver's license or identification card signature to the State Board within 5 days of being notified by the State Board that the individual submitted a voter registration application through the online voter registration system.

(e) The State Board may:

(1) take any additional measures it deems necessary to ensure the integrity and accuracy of voter registration applications submitted through the online voter registration system; and

(2) adopt any regulations necessary to administer the online voter registration system.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Election Law

3–302.

(a) ***[****Registration****]*** ***EXCEPT AS PROVIDED UNDER § 3–305 OF THIS SUBTITLE, REGISTRATION*** *is closed beginning at 9 p.m. on the 21st day preceding an election until the 11th day after that election.*

(b) A voter registration application received when registration is closed shall be accepted and retained by a local board, but the registration of the applicant does not become effective until registration reopens.

(c) A voter registration application that is received by the local board after the close of registration shall be considered timely received for the next election provided:

(1) there is sufficient evidence, as determined by the local board pursuant to regulations adopted by the State Board, that the application was mailed on or before registration was closed for that election; or

(2) the application was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board prior to the close of registration.

3–305.

(A) DURING EARLY VOTING, AN INDIVIDUAL MAY APPEAR IN PERSON AT AN EARLY VOTING CENTER IN THE INDIVIDUAL'S COUNTY OF RESIDENCE AND APPLY TO REGISTER TO VOTE OR CHANGE THE VOTER'S ADDRESS ON AN EXISTING VOTER REGISTRATION.

(B) (1) WHEN APPLYING TO REGISTER TO VOTE OR CHANGE AN ADDRESS ON AN EXISTING REGISTRATION DURING EARLY VOTING, THE APPLICANT SHALL PROVIDE PROOF OF RESIDENCY.

(2) THE APPLICANT SHALL PROVE RESIDENCY BY SHOWING THE ELECTION JUDGE:

(I) A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD THAT CONTAINS THE APPLICANT'S CURRENT ADDRESS; OR

(II) IF THE APPLICANT DOES NOT HAVE A DRIVER'S LICENSE OR IDENTIFICATION CARD THAT CONTAINS THE APPLICANT'S CURRENT ADDRESS, A COPY OF AN OFFICIAL DOCUMENT THAT:

1. MEETS THE REQUIREMENTS ESTABLISHED BY THE STATE BOARD; AND

2. CONTAINS THE APPLICANT'S NAME AND CURRENT ADDRESS.

(C) (1) WHEN AN INDIVIDUAL APPLIES TO REGISTER TO VOTE AT AN EARLY VOTING CENTER, THE ELECTION JUDGE SHALL DETERMINE WHETHER THE APPLICANT RESIDES IN THE COUNTY IN WHICH THE APPLICANT APPLIED AND IS QUALIFIED TO BECOME A REGISTERED VOTER.

(2) IF THE VOTER IS A RESIDENT OF THE COUNTY AND IS QUALIFIED TO REGISTER TO VOTE, THE ELECTION JUDGE SHALL:

(I) ISSUE THE VOTER A VOTING AUTHORITY CARD;

(II) HAVE THE VOTER SIGN THE VOTER AUTHORITY CARD; AND

(III) ISSUE THE VOTER A BALLOT.

(D) (1) WHEN A VOTER APPLIES TO CHANGE THE VOTER'S ADDRESS DURING EARLY VOTING, THE ELECTION JUDGE SHALL DETERMINE WHETHER THE VOTER RESIDES IN THE COUNTY IN WHICH THE VOTER SEEKS TO VOTE.

(2) IF THE VOTER IS A RESIDENT OF THE COUNTY, THE ELECTION JUDGE SHALL:

(I) ISSUE THE VOTER A VOTING AUTHORITY CARD;

(II) HAVE THE VOTER SIGN THE VOTER AUTHORITY CARD; AND

(III) ISSUE THE VOTER THE APPROPRIATE BALLOT FOR THE VOTER'S NEW ADDRESS.

(E) THE STATE BOARD SHALL ADOPT REGULATIONS AND PROCEDURES IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION FOR THE ADMINISTRATION OF VOTER REGISTRATION DURING EARLY VOTING.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Election Law

9–305.

(a) ***[****An application for****] A VOTER MAY REQUEST*** *an absentee ballot****[****, signed by the voter, may be made****] BY COMPLETING AND SUBMITTING:***

(1) ***[****on a form produced by the local board and supplied to the voter****] THE STATE BOARD APPROVED ABSENTEE BALLOT APPLICATION;***

(2) ***[****on****]*** *a form provided under federal law;* ***[****or****]***

(3) ***[****in****]*** *a written request that includes:*

(i) the voter's name ***[****and****],*** *residence address****, AND SIGNATURE;*** *and*

*(ii) the address to which the ballot is to be mailed, if different from the residence address****; OR***

(4) AS SPECIFIED IN SUBSECTION (C) OF THIS SECTION, THE ACCESSIBLE ONLINE ABSENTEE BALLOT APPLICATION PROVIDED BY THE STATE BOARD.

(b) ***[****Except for a late application under subsection (c) of this section, an****] AN*** *application for an absentee ballot must be received by a local board****:***

(1) IF THE VOTER REQUESTS THE ABSENTEE BALLOT BE SENT BY MAIL OR FACSIMILE TRANSMISSION, *not later than the Tuesday preceding the election, at the time specified in the guidelines****;***

(2) IF THE VOTER REQUESTS THE ABSENTEE BALLOT BE SENT BY THE INTERNET, NOT LATER THAN THE FRIDAY PRECEDING THE ELECTION, AT THE TIME SPECIFIED IN THE GUIDELINES; OR

(3) IF THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT APPLIES FOR AN ABSENTEE BALLOT IN PERSON AT THE LOCAL BOARD OFFICE, NOT LATER THAN THE CLOSING OF THE POLLS ON ELECTION DAY.

[(c) (1) Beginning on the Wednesday preceding the election, through the closing of the polls on election day, a registered voter or the voter's duly authorized agent may apply in person for an absentee ballot at the office of the local board.

(2) A special application for an absentee ballot issued under this subsection shall be supplied by the staff of the local board to the voter or the voter's duly authorized agent.

(3) The application shall be made under penalty of perjury but without a formal oath.

(4) After review of the application, the staff shall issue an absentee ballot to the voter or the voter's duly authorized agent.]

(C) THE ONLINE ABSENTEE BALLOT APPLICATION PROVIDED BY THE STATE BOARD SHALL REQUIRE THE APPLICANT TO PROVIDE:

(1) A MARYLAND DRIVER'S LICENSE NUMBER OR MARYLAND IDENTIFICATION CARD NUMBER, THE LAST FOUR DIGITS OF THE APPLICANT'S SOCIAL SECURITY NUMBER, AND OTHER INFORMATION IDENTIFIED BY THE STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY AVAILABLE TO THE APPLICANT; OR

(2) IF THE APPLICANT IS AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AND DOES NOT HAVE A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, A SOCIAL SECURITY NUMBER.

9–306.

(a) Promptly after receipt of an application, the election director shall review the application and determine whether the applicant qualifies to vote by absentee ballot.

(b) If the applicant qualifies to vote by absentee ballot, the local board shall [send] ***PROVIDE*** *the ballot* ***BY ONE OF THE FOLLOWING METHODS REQUESTED BY THE VOTER:***

(1) MAIL;

(2) FACSIMILE TRANSMISSION;

(3) THE INTERNET; OR

(4) BY HAND DURING AN IN–PERSON TRANSACTION.

(C) ONCE BALLOTS ARE AVAILABLE, THE LOCAL BOARD SHALL PROVIDE THE BALLOT TO A QUALIFIED APPLICANT:

(1) as soon as practicable after receipt of the request; or

(2) [if the ballots have not been received from the printer, as soon as practicable after the local board receives delivery of the ballots] ***IMMEDIATELY FOR AN IN–PERSON TRANSACTION WITH A VOTER OR THE VOTER'S DULY AUTHORIZED AGENT.***

[(c)] ***(D)*** *(1) If the members of the local board determine that the applicant is not entitled to vote by absentee ballot, the local board shall notify the applicant as soon as practicable after receipt of the application of the reasons for the rejection.*

(2) (i) The local board may delegate the determination under paragraph (1) of this subsection to the staff of the local board.

(ii) If the determination has been delegated, the applicant may appeal the rejection to the members of the local board, who shall decide the appeal as expeditiously as practicable.

[(d)] ***(E)*** *Not more than one absentee ballot may be issued to a voter unless the election director of the local board has reasonable grounds to believe that an absentee ballot previously issued to the voter has been lost, destroyed, or spoiled.*

9–308.1.

(A) IN THIS SECTION:

(1) "ONLINE BALLOT MARKING TOOL" INCLUDES A SYSTEM THAT ALLOWS A VOTER TO:

(I) ACCESS A BLANK BALLOT THROUGH THE INTERNET;

(II) ELECTRONICALLY MARK THE BALLOT WITH THE VOTER'S SELECTIONS; AND

(III) PRINT A PAPER COPY OF THE MARKED BALLOT FOR MAILING TO A LOCAL BOARD; AND

(2) "ONLINE BALLOT MARKING TOOL" DOES NOT INCLUDE A SYSTEM THAT IS CAPABLE OF STORING, TABULATING, OR TRANSMITTING VOTES OR VOTED BALLOTS BY ELECTRONIC OR ELECTROMAGNETIC MEANS THROUGH THE INTERNET.

(B) THE STATE BOARD MAY PROVIDE AN ACCESSIBLE OPTIONAL ONLINE BALLOT MARKING TOOL FOR USE BY A VOTER WHO REQUESTED TO HAVE THE ABSENTEE BALLOT SENT BY THE INTERNET.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE STATE BOARD SHALL CERTIFY THAT AN ONLINE BALLOT MARKING TOOL SATISFIES ALL OF THE CERTIFICATION REQUIREMENTS UNDER § 9–102(D) OF THIS TITLE BEFORE APPROVING AN ONLINE BALLOT MARKING TOOL FOR USE BY VOTERS.

(2) AN ONLINE BALLOT MARKING TOOL IS NOT REQUIRED TO SATISFY THE REQUIREMENTS OF:

(I) § 9–102(D)(2) OF THIS TITLE IF THE U.S. ELECTION ASSISTANCE COMMISSION HAS NOT APPROVED SPECIFIC PERFORMANCE AND TEST STANDARDS FOR ONLINE BALLOT MARKING TOOLS; OR

(II) § 9–102(D)(1)(III) OF THIS TITLE.

(D) (1) THIS SUBSECTION APPLIES IF AN ONLINE BALLOT MARKING TOOL UTILIZES A BAR CODE THAT IS USED TO GENERATE A BALLOT THAT IS ACCEPTABLE FOR MACHINE TABULATION.

(2) A LOCAL BOARD SHALL COMPARE THE VOTE IN EACH CONTEST ON THE BALLOT MARKED BY THE VOTER TO THE VOTE IN EACH CONTEST ON THE BALLOT GENERATED FROM THE BAR CODE DURING THE CANVASS.

(3) IF THERE IS A DISCREPANCY IN ANY CONTEST BETWEEN THE VOTE ON THE BALLOT MARKED BY THE VOTER AND THE VOTE ON THE BALLOT GENERATED FROM THE BAR CODE, THE VOTE ON THE BALLOT MARKED BY THE VOTER SHALL BE CONSIDERED VALID AND SHALL BE COUNTED.

9–310.

(a) ***(1) THIS SUBSECTION APPLIES ONLY TO AN ABSENTEE BALLOT THAT IS SENT BY MAIL.***

(2) *An absentee ballot shall be enclosed in specially printed envelopes, the form and content of which shall be prescribed by the State Board.*

*[(b) (1)] **(3)** **(I)** A local board may use either two envelopes or three envelopes.*

*[(2)] **(II)** If two envelopes are used, the inner envelope shall be designated the "ballot/return envelope", and, when issued, it shall fit inside the envelope designated the "outgoing envelope".*

*[(3)] **(III)** If three envelopes are used, the innermost envelope shall be designated the "ballot envelope", which shall fit inside the envelope designated the "return envelope", both of which, when issued, shall fit inside the envelope designated the "outgoing envelope".*

*[(c)] **(4)** When voted and returned to the local board, an absentee ballot shall be enclosed in a ballot envelope or ballot/return envelope, on which has been printed an oath prescribed by the State Board.*

(B) IF AN ABSENTEE BALLOT IS SENT BY THE INTERNET OR FACSIMILE TRANSMISSION, THE LOCAL BOARD SHALL PROVIDE THE VOTER WITH AN ENVELOPE TEMPLATE, THE OATH PRESCRIBED BY THE STATE BOARD, AND INSTRUCTIONS FOR MARKING AND RETURNING THE ABSENTEE BALLOT.

10–301.1.

(a) Except as provided under Title 9, Subtitle 3 of this article, during any regularly scheduled primary or general election a voter may vote:

(1) in the voter's assigned precinct on election day; or

(2) at an early voting center in the voter's county of residence on any early voting day in accordance with this section.

(b) (1) Each county shall have at least one early voting center established in the county as prescribed in this subsection.

*(2) A county with fewer than [150,000] **125,000** registered voters shall have one early voting center established in the county.*

*(3) A county with more than [150,000] **125,000 REGISTERED VOTERS** but fewer than 300,000 registered voters shall have three early voting centers established in the county.*

*(4) A county with more than 300,000 registered voters **BUT FEWER THAN 450,000 REGISTERED VOTERS** shall have five early voting centers established in the county.*

(5) A COUNTY WITH MORE THAN 450,000 REGISTERED VOTERS SHALL HAVE EIGHT EARLY VOTING CENTERS.

(6) IN ADDITION TO THE EARLY VOTING CENTERS REQUIRED IN THIS SUBSECTION, EACH COUNTY MAY ESTABLISH ONE ADDITIONAL EARLY VOTING CENTER IF THE STATE BOARD, IN COLLABORATION WITH THE LOCAL BOARD, AND THE GOVERNING BODY OF THE COUNTY AGREE TO ESTABLISH AN ADDITIONAL EARLY VOTING CENTER.

(c) No later than 6 months before a primary election, the State Board, in collaboration with the local board in each county, shall designate each early voting center in that county.

(d) Each early voting center shall be open for voting as follows:

[*(1) for the 2010 gubernatorial primary and general elections:*

(i) beginning the second Friday before a primary or general election through the Thursday before the elections, but excluding Sunday; and

(ii) during the hours between 10 a.m. and 8 p.m.; and

(2) for the 2012 presidential primary and general elections:

(i) beginning the second Saturday before a primary or general election through the Thursday before the elections; and

(ii) 1. during the hours between 10 a.m. and 8 p.m. on the Saturday and the Monday through the Thursday during the early voting period; and

*2. during the hours between 12 noon and 6 p.m. on the Sunday during the early voting period.****]***

(1) BEGINNING THE SECOND THURSDAY BEFORE A PRIMARY OR GENERAL ELECTION THROUGH THE THURSDAY BEFORE THE ELECTION; AND

(2) DURING THE FOLLOWING HOURS:

(I) IN A PRESIDENTIAL GENERAL ELECTION, DURING THE HOURS BETWEEN 8 A.M. AND 8 P.M. EACH EARLY VOTING DAY; AND

(II) IN ALL OTHER ELECTIONS, DURING THE HOURS BETWEEN 10 A.M. AND 8 P.M. EACH EARLY VOTING DAY.

(e) Each early voting center shall satisfy the requirements of § 10–101 of this title.

(f) Beginning 30 days prior to each early voting period the State Board and each local board shall undertake steps to inform the public about early voting and the location of early voting centers in each county, including:

(1) a series of public service media announcements;

(2) mailings to all registered voters in each county; and

(3) other measures as appropriate.

(g) Except as expressly provided in this section, any provision of this article that applies to voting on election day also applies to early voting.

(h) The State Board shall adopt regulations and guidelines in accordance with the requirements of this section for the conduct of early voting.

16–201.

(a) A person may not willfully and knowingly:

(1) (i) impersonate another person in order to vote or attempt to vote; or

(ii) vote or attempt to vote under a false name;

(2) vote more than once for a candidate for the same office or for the same ballot question;

(3) vote or attempt to vote more than once in the same election, or vote in more than one election district or precinct;

(4) vote in an election district or precinct without the legal authority to vote in that election district or precinct;

(5) influence or attempt to influence a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward;

(6) influence or attempt to influence a voter's decision whether to go to the polls to cast a vote through the use of force, fraud, threat, menace, intimidation, bribery, reward, or offer of reward; or

(7) engage in conduct that results or has the intent to result in the denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or disability.

(b) Except as provided in § 16–1002 of this title, a person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine of not more than ***[****$2,500****] $5,000*** *or imprisonment for not more than 5 years or both.*

(c) A person who violates this section is subject to § 5–106(b) of the Courts Article.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The State Board of Elections shall conduct a detailed analysis of options and administrative requirements for extending the early voting period to the Sunday before election day.

(b) As part of its analysis under subsection (a) of this section, the State Board shall evaluate at least the following options:

(1) supplying paper supplemental lists with the names of voters who voted at an early voting center to polling places on election day; and

(2) updating the electronic poll books used on election day with the names of voters who voted at an early voting center.

(c) The analysis shall address the following:

(1) technical changes required to support early voting through the Sunday before election day;

(2) the impact of extending early voting to the Sunday before election day on other election procedures;

(3) an estimate of the fiscal impact of extending early voting to the Sunday before election day; and

(4) the potential effect on voter turnout of extending the early voting period to the Sunday before election day.

(d) The State Board shall consult with elections officials in at least 5 other states that offer early voting through the Sunday before election day and complete a written analysis of the policies and practices of those states and how they might be applied in Maryland.

(e) The State Board shall submit a report of its findings and recommendations, including the information required under subsection (d) of this section, on or before December 31, 2013, to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.

SECTION 5. AND BE IT FURTHER ENACTED, That the State Board of Elections shall:

(a) (1) review the maximum wait times for Maryland voters in the 2010 and 2012 primary and general elections and identify the causes for wait times of more than 30 minutes; and

(2) propose target maximum wait times for voters at early voting centers and polling places at primary and general elections in the State;

(b) review and conduct a detailed analysis concerning the deployment of voting equipment and related infrastructure and the staffing practices and procedures utilized by local boards of election at early voting centers during the early voting period and at polling places on election day to determine what adjustments could be implemented to reduce the maximum wait times at early voting centers during the early voting period and polling places on election day to 30 minutes or, alternatively, to 60 minutes;

(c) if it determines that additional voting equipment and related infrastructure and staff are needed to reduce the maximum wait times at early voting centers during the early voting period and polling places on election day to 30 minutes or, alternatively, to 60 minutes, provide an estimate of the fiscal costs of implementing each of those standards; and

(d) on or before December 31, 2013, submit a report of its findings and recommendations to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) The State Board of Elections shall conduct an accessibility and usability evaluation of the online ballot marking tool authorized under this Act to assess its accessibility and usability by voters with disabilities, including:

(1) a public demonstration of the system; and

(2) an evaluation by individuals representing a cross–section of voters with disabilities.

(b) The State Board shall conduct the accessibility and usability evaluation under this section before approving an online ballot marking tool for use by voters with disabilities.

(c) The State Board shall submit a report summarizing the results of the evaluation under this section on or before December 31, 2013, to the Senate Education,

Health, and Environmental Affairs Committee and House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) The State Board of Elections shall engage an independent consultant to study and make recommendations on improving the security of:

(1) online delivery and marking of absentee ballots and the return and tabulation of absentee ballots that are delivered and marked electronically;

(2) other online voter services, including online voter registration and online absentee ballot applications; and

(3) any other voting technology specified by the State Board.

(b) The independent consultant shall submit a report of its findings and recommendations on or before December 31, 2013, to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.

SECTION 8. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2016.

SECTION 9. AND BE IT FURTHER ENACTED, That except as provided in Section 8 of this Act, this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 158

(House Bill 224)

AN ACT concerning

Election Law – Improving Access to Voting

FOR the purpose of requiring an individual who applies to register to vote or update an existing voter registration online to provide certain information; providing an exception to the voter registration deadline to allow an individual to register to vote or update an existing voter registration address and vote during early voting; requiring proof of residency to register or update an existing voter registration address during early voting; providing the types of acceptable proof; requiring the State Board of Elections to adopt regulations and establish procedures for the administration of voter registration during early voting;

providing for certain methods of requesting an absentee ballot, including through the use of an accessible online application; requiring an individual who requests an absentee ballot online to provide certain information; requiring a local board of elections to provide a voter with an absentee ballot in the manner requested by the voter; ~~requiring~~ authorizing the State Board to provide an accessible optional online ballot marking tool; specifying certain certification requirements for the ballot marking tool; requiring a local board to follow certain procedures during the canvass of votes cast using an online ballot marking tool; authorizing an absentee ballot to be sent by the Internet or facsimile transmission and requiring certain information to be provided with the ballot; altering the number of early voting centers for a county with a certain number of registered voters; altering the dates and times for early voting during certain elections; increasing the amount of a certain fine that may be imposed for certain violations of election law; requiring the State Board to conduct a certain analysis of extending the early voting period and submit the analysis to certain committees of the General Assembly on or before a certain date; requiring the State Board to review and conduct an analysis of wait times at polling places and submit a certain report to certain committees of the General Assembly on or before a certain date; requiring the State Board to conduct a certain usability and accessibility evaluation of an online ballot marking tool and submit a certain report to certain committees of the General Assembly on or before a certain date; requiring the State Board to engage an independent consultant to study and make recommendations on improving the security of certain technology used in the conduct of elections; requiring the independent consultant to submit a certain report to certain committees of the General Assembly on or before a certain date; defining a certain term; providing for a delayed effective date for certain provisions of this Act; and generally relating to election law and improving access to voting.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–204.1, 3–302, 9–305, 9–306, ~~9–308,~~ 9–310~~, and 10–301.1~~, 10–301.1, and 16–201
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Election Law
Section 3–305 and 9–308.1
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Election Law

3–204.1.

(a) The State Board may operate an online voter registration system that allows an individual to electronically:

(1) apply to become a registered voter; or

(2) change the individual's name, address, or party affiliation in the individual's existing voter registration record.

(b) To apply to register to vote through the online voter registration system, an individual shall:

(1) complete the electronic voter registration application;

(2) affirmatively attest, subject to the penalties of perjury, that the information contained in the voter registration application is true and that the applicant meets all of the qualifications to become a registered voter;

(3) provide one of the following:

(i) a Maryland driver's license number or Maryland identification card number**, THE LAST FOUR DIGITS OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER, AND OTHER INFORMATION IDENTIFIED BY THE STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY AVAILABLE TO THE INDIVIDUAL**; or

(ii) if the individual is an absent uniformed services voter or overseas voter as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number; and

(4) affirmatively consent to the use of one of the following as the individual's signature for the application being submitted:

(i) the electronic copy of the individual's signature that is on file with the Motor Vehicle Administration; or

(ii) the individual's Social Security number.

(c) To change an individual's name, address, or party affiliation in the individual's existing voter registration record, an individual shall:

(1) complete the electronic voter registration application;

(2) affirmatively attest, subject to the penalties of perjury, that the information contained in the voter registration application is true and that the applicant meets all of the qualifications to be a registered voter;

(3) provide one of the following:

(i) a Maryland driver's license number or Maryland identification card number**, THE LAST FOUR DIGITS OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER, AND OTHER INFORMATION IDENTIFIED BY THE STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY AVAILABLE TO THE INDIVIDUAL; OR**

(ii) **[**a Maryland voter identification number on the individual's voter notification card; or

(iii)**]** if the individual is an absent uniformed services voter or overseas voter as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number; and

(4) affirmatively consent to the use of one of the following as the individual's signature for the application being submitted:

(i) the electronic copy of the individual's signature that is on file with the Motor Vehicle Administration; **OR**

(ii) **[**the electronic copy of the individual's signature that is on file in the statewide voter registration list; or

(iii)**]** the individual's Social Security number.

(d) The Motor Vehicle Administration shall transmit an electronic copy of an individual's driver's license or identification card signature to the State Board within 5 days of being notified by the State Board that the individual submitted a voter registration application through the online voter registration system.

(e) The State Board may:

(1) take any additional measures it deems necessary to ensure the integrity and accuracy of voter registration applications submitted through the online voter registration system; and

(2) adopt any regulations necessary to administer the online voter registration system.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Election Law

3–302.

(a) **[**Registration**] EXCEPT AS PROVIDED UNDER § 3–305 OF THIS SUBTITLE, REGISTRATION** is closed beginning at 9 p.m. on the 21st day preceding an election until the 11th day after that election.

(b) A voter registration application received when registration is closed shall be accepted and retained by a local board, but the registration of the applicant does not become effective until registration reopens.

(c) A voter registration application that is received by the local board after the close of registration shall be considered timely received for the next election provided:

(1) there is sufficient evidence, as determined by the local board pursuant to regulations adopted by the State Board, that the application was mailed on or before registration was closed for that election; or

(2) the application was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board prior to the close of registration.

3–305.

(A) DURING EARLY VOTING, AN INDIVIDUAL MAY APPEAR IN PERSON AT AN EARLY VOTING CENTER IN THE INDIVIDUAL'S COUNTY OF RESIDENCE AND APPLY TO REGISTER TO VOTE OR CHANGE THE VOTER'S ADDRESS ON AN EXISTING VOTER REGISTRATION.

(B) (1) WHEN APPLYING TO REGISTER TO VOTE OR CHANGE AN ADDRESS ON AN EXISTING REGISTRATION DURING EARLY VOTING, THE APPLICANT SHALL PROVIDE PROOF OF RESIDENCY.

(2) THE APPLICANT SHALL PROVE RESIDENCY BY SHOWING THE ELECTION JUDGE:

(I) A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD THAT CONTAINS THE APPLICANT'S CURRENT ADDRESS; OR

(II) IF THE APPLICANT DOES NOT HAVE A DRIVER'S LICENSE OR IDENTIFICATION CARD THAT CONTAINS THE APPLICANT'S CURRENT ADDRESS, A COPY OF AN OFFICIAL DOCUMENT THAT:

1. MEETS THE REQUIREMENTS ESTABLISHED BY THE STATE BOARD; AND

2. CONTAINS THE APPLICANT'S NAME AND CURRENT ADDRESS.

(C) (1) WHEN AN INDIVIDUAL APPLIES TO REGISTER TO VOTE AT AN EARLY VOTING CENTER, THE ELECTION JUDGE SHALL DETERMINE WHETHER THE APPLICANT RESIDES IN THE COUNTY IN WHICH THE APPLICANT APPLIED AND IS QUALIFIED TO BECOME A REGISTERED VOTER.

(2) IF THE VOTER IS A RESIDENT OF THE COUNTY AND IS QUALIFIED TO REGISTER TO VOTE, THE ELECTION JUDGE SHALL:

(I) ISSUE THE VOTER A VOTING AUTHORITY CARD;

(II) HAVE THE VOTER SIGN THE VOTER AUTHORITY CARD; AND

(III) ISSUE THE VOTER A BALLOT.

(D) (1) WHEN A VOTER APPLIES TO CHANGE THE VOTER'S ADDRESS DURING EARLY VOTING, THE ELECTION JUDGE SHALL DETERMINE WHETHER THE VOTER RESIDES IN THE COUNTY IN WHICH THE VOTER SEEKS TO VOTE.

(2) IF THE VOTER IS A RESIDENT OF THE COUNTY, THE ELECTION JUDGE SHALL:

(I) ISSUE THE VOTER A VOTING AUTHORITY CARD;

(II) HAVE THE VOTER SIGN THE VOTER AUTHORITY CARD; AND

(III) ISSUE THE VOTER THE APPROPRIATE BALLOT FOR THE VOTER'S NEW ADDRESS.

(E) THE STATE BOARD SHALL ADOPT REGULATIONS AND PROCEDURES IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION FOR THE ADMINISTRATION OF VOTER REGISTRATION DURING EARLY VOTING.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Election Law

9–305.

(a) **[**An application for**] A VOTER MAY REQUEST** an absentee ballot**[**, signed by the voter, may be made**] BY COMPLETING AND SUBMITTING**:

(1) **[**on a form produced by the local board and supplied to the voter**] THE STATE BOARD APPROVED ABSENTEE BALLOT APPLICATION**;

(2) **[**on**]** a form provided under federal law; **[**or**]**

(3) **[**in**]** a written request that includes:

(i) the voter's name **[**and**],** residence address**, AND SIGNATURE**; and

(ii) the address to which the ballot is to be mailed, if different from the residence address**; OR**

(4) AS SPECIFIED IN SUBSECTION (C) OF THIS SECTION, THE ACCESSIBLE ONLINE ABSENTEE BALLOT APPLICATION PROVIDED BY THE STATE BOARD.

(b) **[**Except for a late application under subsection (c) of this section, an**] AN** application for an absentee ballot must be received by a local board**:**

(1) IF THE VOTER REQUESTS THE ABSENTEE BALLOT BE SENT BY MAIL OR FACSIMILE TRANSMISSION, not later than the Tuesday preceding the election, at the time specified in the guidelines**;**

(2) IF THE VOTER REQUESTS THE ABSENTEE BALLOT BE SENT BY THE INTERNET, NOT LATER THAN THE FRIDAY PRECEDING THE ELECTION, AT THE TIME SPECIFIED IN THE GUIDELINES; OR

(3) IF THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT APPLIES FOR AN ABSENTEE BALLOT IN PERSON AT THE LOCAL BOARD OFFICE, NOT LATER THAN THE CLOSING OF THE POLLS ON ELECTION DAY.

[(c) (1) Beginning on the Wednesday preceding the election, through the closing of the polls on election day, a registered voter or the voter's duly authorized agent may apply in person for an absentee ballot at the office of the local board.

(2) A special application for an absentee ballot issued under this subsection shall be supplied by the staff of the local board to the voter or the voter's duly authorized agent.

(3) The application shall be made under penalty of perjury but without a formal oath.

(4) After review of the application, the staff shall issue an absentee ballot to the voter or the voter's duly authorized agent.**]**

(C) THE ONLINE ABSENTEE BALLOT APPLICATION PROVIDED BY THE STATE BOARD SHALL REQUIRE THE APPLICANT TO PROVIDE:

(1) A MARYLAND DRIVER'S LICENSE NUMBER OR MARYLAND IDENTIFICATION CARD NUMBER, THE LAST FOUR DIGITS OF THE APPLICANT'S SOCIAL SECURITY NUMBER, AND OTHER INFORMATION IDENTIFIED BY THE STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY AVAILABLE TO THE APPLICANT; OR

(2) IF THE APPLICANT IS AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AND DOES NOT HAVE A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, A SOCIAL SECURITY NUMBER.

9–306.

(a) Promptly after receipt of an application, the election director shall review the application and determine whether the applicant qualifies to vote by absentee ballot.

(b) If the applicant qualifies to vote by absentee ballot, the local board shall **[**send**]** **PROVIDE** the ballot **BY ONE OF THE FOLLOWING METHODS REQUESTED BY THE VOTER**:

(1) MAIL;

(2) FACSIMILE TRANSMISSION;

(3) THE INTERNET; OR

(4) BY HAND DURING AN IN–PERSON TRANSACTION.

(C) ONCE BALLOTS ARE AVAILABLE, THE LOCAL BOARD SHALL PROVIDE THE BALLOT TO A QUALIFIED APPLICANT:

(1) as soon as practicable after receipt of the request; or

(2) **[**if the ballots have not been received from the printer, as soon as practicable after the local board receives delivery of the ballots**] IMMEDIATELY FOR AN IN–PERSON TRANSACTION WITH A VOTER OR THE VOTER'S DULY AUTHORIZED AGENT**.

[(c)**] (D)** (1) If the members of the local board determine that the applicant is not entitled to vote by absentee ballot, the local board shall notify the applicant as soon as practicable after receipt of the application of the reasons for the rejection.

(2) (i) The local board may delegate the determination under paragraph (1) of this subsection to the staff of the local board.

(ii) If the determination has been delegated, the applicant may appeal the rejection to the members of the local board, who shall decide the appeal as expeditiously as practicable.

[(d)**] (E)** Not more than one absentee ballot may be issued to a voter unless the election director of the local board has reasonable grounds to believe that an absentee ballot previously issued to the voter has been lost, destroyed, or spoiled.

~~9–308.~~

~~(a) A voter who requires assistance in casting an absentee ballot by reason of disability, inability to write, or inability to read the ballot may be assisted by any individual other than:~~

~~(1) a candidate who is on that ballot;~~

~~(2) the voter's employer or an agent of the employer; or~~

~~(3) an officer or agent of the voter's union.~~

~~(b) An individual rendering assistance under this section shall execute a certification as prescribed by the State Board and included in the instructions under § 9–309 of this subtitle.~~

~~**(C) (1) THE STATE BOARD SHALL PROVIDE AN OPTIONAL ONLINE BALLOT MARKING TOOL FOR A VOTER WHO REQUESTED TO HAVE THE ABSENTEE BALLOT SENT BY THE INTERNET.**~~

~~(2) (I) THE STATE BOARD SHALL CERTIFY THE ONLINE BALLOT MARKING TOOL IN ACCORDANCE WITH THE APPLICABLE CERTIFICATION STANDARDS UNDER § 9–102(D) OF THIS TITLE.~~

~~(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, § 9–102(D)(2) OF THIS TITLE IS NOT APPLICABLE TO THE STATE BOARD'S CERTIFICATION DETERMINATION IF THE U.S. ELECTION ASSISTANCE COMMISSION HAS NOT APPROVED SPECIFIC PERFORMANCE AND TEST STANDARDS FOR ONLINE BALLOT MARKING TOOLS.~~

9–308.1.

(A) IN THIS SECTION:

(1) "ONLINE BALLOT MARKING TOOL" INCLUDES A SYSTEM THAT ALLOWS A VOTER TO:

(I) ACCESS A BLANK BALLOT THROUGH THE INTERNET;

(II) ELECTRONICALLY MARK THE BALLOT WITH THE VOTER'S SELECTIONS; AND

(III) PRINT A PAPER COPY OF THE MARKED BALLOT FOR MAILING TO A LOCAL BOARD; AND

(2) "ONLINE BALLOT MARKING TOOL" DOES NOT INCLUDE A SYSTEM THAT IS CAPABLE OF STORING, TABULATING, OR TRANSMITTING VOTES OR VOTED BALLOTS BY ELECTRONIC OR ELECTROMAGNETIC MEANS THROUGH THE INTERNET.

(B) THE STATE BOARD MAY PROVIDE AN ACCESSIBLE OPTIONAL ONLINE BALLOT MARKING TOOL FOR USE BY A VOTER WHO REQUESTED TO HAVE THE ABSENTEE BALLOT SENT BY THE INTERNET.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE STATE BOARD SHALL CERTIFY THAT AN ONLINE BALLOT MARKING TOOL SATISFIES ALL OF THE CERTIFICATION REQUIREMENTS UNDER § 9–102(D) OF THIS TITLE BEFORE APPROVING AN ONLINE BALLOT MARKING TOOL FOR USE BY VOTERS.

(2) AN ONLINE BALLOT MARKING TOOL IS NOT REQUIRED TO SATISFY THE REQUIREMENTS OF:

(I) **§ 9–102(D)(2) OF THIS TITLE IF THE U.S. ELECTION ASSISTANCE COMMISSION HAS NOT APPROVED SPECIFIC PERFORMANCE AND TEST STANDARDS FOR ONLINE BALLOT MARKING TOOLS*; OR***

(II) ***§ 9–102(D)(1)(III) OF THIS TITLE.***

(D) (1) THIS SUBSECTION APPLIES IF AN ONLINE BALLOT MARKING TOOL UTILIZES A BAR CODE THAT IS USED TO GENERATE A BALLOT THAT IS ACCEPTABLE FOR MACHINE TABULATION.

(2) A LOCAL BOARD SHALL COMPARE THE VOTE IN EACH CONTEST ON THE BALLOT MARKED BY THE VOTER TO THE VOTE IN EACH CONTEST ON THE BALLOT GENERATED FROM THE BAR CODE DURING THE CANVASS.

(3) IF THERE IS A DISCREPANCY IN ANY CONTEST BETWEEN THE VOTE ON THE BALLOT MARKED BY THE VOTER AND THE VOTE ON THE BALLOT GENERATED FROM THE BAR CODE, THE VOTE ON THE BALLOT MARKED BY THE VOTER SHALL BE CONSIDERED VALID AND SHALL BE COUNTED.

9–310.

(a) **(1) THIS SUBSECTION APPLIES ONLY TO AN ABSENTEE BALLOT THAT IS SENT BY MAIL.**

(2) An absentee ballot shall be enclosed in specially printed envelopes, the form and content of which shall be prescribed by the State Board.

[(b) (1)**] (3) (I)** A local board may use either two envelopes or three envelopes.

[(2)**] (II)** If two envelopes are used, the inner envelope shall be designated the "ballot/return envelope", and, when issued, it shall fit inside the envelope designated the "outgoing envelope".

[(3)**] (III)** If three envelopes are used, the innermost envelope shall be designated the "ballot envelope", which shall fit inside the envelope designated the "return envelope", both of which, when issued, shall fit inside the envelope designated the "outgoing envelope".

[(c)**] (4)** When voted and returned to the local board, an absentee ballot shall be enclosed in a ballot envelope or ballot/return envelope, on which has been printed an oath prescribed by the State Board.

(B) IF AN ABSENTEE BALLOT IS SENT BY THE INTERNET OR FACSIMILE TRANSMISSION, THE LOCAL BOARD SHALL PROVIDE THE VOTER WITH AN ENVELOPE TEMPLATE, THE OATH PRESCRIBED BY THE STATE BOARD, AND INSTRUCTIONS FOR MARKING AND RETURNING THE ABSENTEE BALLOT.

10–301.1.

(a) Except as provided under Title 9, Subtitle 3 of this article, during any regularly scheduled primary or general election a voter may vote:

(1) in the voter's assigned precinct on election day; or

(2) at an early voting center in the voter's county of residence on any early voting day in accordance with this section.

(b) (1) Each county shall have at least one early voting center established in the county as prescribed in this subsection.

(2) A county with fewer than **[**150,000**]** **125,000** registered voters shall have one early voting center established in the county.

(3) A county with more than **[**150,000**]** **125,000 REGISTERED VOTERS** but fewer than 300,000 registered voters shall have three early voting centers established in the county.

(4) A county with more than 300,000 registered voters **BUT FEWER THAN 450,000 REGISTERED VOTERS** shall have five early voting centers established in the county.

(5) A COUNTY WITH MORE THAN 450,000 REGISTERED VOTERS SHALL HAVE EIGHT EARLY VOTING CENTERS.

(6) IN ADDITION TO THE EARLY VOTING CENTERS REQUIRED IN THIS SUBSECTION, EACH COUNTY MAY ESTABLISH ONE ADDITIONAL EARLY VOTING CENTER IF THE STATE BOARD, IN COLLABORATION WITH THE LOCAL BOARD, AND THE GOVERNING BODY OF THE COUNTY AGREE TO ESTABLISH AN ADDITIONAL EARLY VOTING CENTER.

(c) No later than 6 months before a primary election, the State Board, in collaboration with the local board in each county, shall designate each early voting center in that county.

(d) Each early voting center shall be open for voting as follows:

[(1) for the 2010 gubernatorial primary and general elections:

(i) beginning the second Friday before a primary or general election through the Thursday before the elections, but excluding Sunday; and

(ii) during the hours between 10 a.m. and 8 p.m.; and

(2) for the 2012 presidential primary and general elections:

(i) beginning the second Saturday before a primary or general election through the Thursday before the elections; and

(ii) 1. during the hours between 10 a.m. and 8 p.m. on the Saturday and the Monday through the Thursday during the early voting period; and

2. during the hours between 12 noon and 6 p.m. on the Sunday during the early voting period.**]**

(1) BEGINNING THE SECOND THURSDAY BEFORE A PRIMARY OR GENERAL ELECTION THROUGH THE THURSDAY BEFORE THE ELECTION; AND

(2) DURING THE FOLLOWING HOURS:

(I) IN A PRESIDENTIAL GENERAL ELECTION, DURING THE HOURS BETWEEN 8 A.M. AND 8 P.M. EACH EARLY VOTING DAY; AND

(II) IN ALL OTHER ELECTIONS, DURING THE HOURS BETWEEN 10 A.M. AND 8 P.M. EACH EARLY VOTING DAY.

(e) Each early voting center shall satisfy the requirements of § 10–101 of this title.

(f) Beginning 30 days prior to each early voting period the State Board and each local board shall undertake steps to inform the public about early voting and the location of early voting centers in each county, including:

(1) a series of public service media announcements;

(2) mailings to all registered voters in each county; and

(3) other measures as appropriate.

(g) Except as expressly provided in this section, any provision of this article that applies to voting on election day also applies to early voting.

(h) The State Board shall adopt regulations and guidelines in accordance with the requirements of this section for the conduct of early voting.

16–201.

(a) A person may not willfully and knowingly:

(1) (i) impersonate another person in order to vote or attempt to vote; or

(ii) vote or attempt to vote under a false name;

(2) vote more than once for a candidate for the same office or for the same ballot question;

(3) vote or attempt to vote more than once in the same election, or vote in more than one election district or precinct;

(4) vote in an election district or precinct without the legal authority to vote in that election district or precinct;

(5) influence or attempt to influence a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward;

(6) influence or attempt to influence a voter's decision whether to go to the polls to cast a vote through the use of force, fraud, threat, menace, intimidation, bribery, reward, or offer of reward; or

(7) engage in conduct that results or has the intent to result in the denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or disability.

(b) Except as provided in § 16–1002 of this title, a person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine of not more than **[**$2,500**] $5,000** or imprisonment for not more than 5 years or both.

(c) A person who violates this section is subject to § 5–106(b) of the Courts Article.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That:

(a) The State Board of Elections shall conduct a detailed analysis of options and administrative requirements for extending the early voting period to the Sunday before election day.

(b) As part of its analysis under subsection (a) of this section, the State Board shall evaluate at least the following options:

(1) supplying paper supplemental lists with the names of voters who voted at an early voting center to polling places on election day; and

(2) updating the electronic poll books used on election day with the names of voters who voted at an early voting center.

(c) The analysis shall address the following:

(1) technical changes required to support early voting through the Sunday before election day;

(2) the impact of extending early voting to the Sunday before election day on other election procedures;

(3) an estimate of the fiscal impact of extending early voting to the Sunday before election day; and

(4) the potential effect on voter turnout of extending the early voting period to the Sunday before election day.

(d) The State Board shall consult with elections officials in at least 5 other states that offer early voting through the Sunday before election day and complete a written analysis of the policies and practices of those states and how they might be applied in Maryland.

(e) The State Board shall submit a report of its findings and recommendations, including the information required under subsection (d) of this section, on or before December 31, 2013, to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.

SECTION ~~3.~~ 5. AND BE IT FURTHER ENACTED, That the State Board of Elections shall:

(a) (1) review the maximum wait times for Maryland voters in the 2010 and 2012 primary and general elections and identify the causes for wait times of more than 30 minutes; and

(2) propose target maximum wait times for voters at early voting centers and polling places at primary and general elections in the State;

(b) review and conduct a detailed analysis concerning the deployment of voting equipment and related infrastructure and the staffing practices and procedures utilized by local boards of election at early voting centers during the early voting period and at polling places on election day to determine what adjustments could be implemented to reduce the maximum wait times at early voting centers during the

early voting period and polling places on election day to 30 minutes or, alternatively, to 60 minutes;

(c) if it determines that additional voting equipment and related infrastructure and staff are needed to reduce the maximum wait times at early voting centers during the early voting period and polling places on election day to 30 minutes or, alternatively, to 60 minutes, provide an estimate of the fiscal costs of implementing each of those standards; and

(d) on or before December 31, 2013, submit a report of its findings and recommendations to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.

SECTION ~~4.~~ 6. AND BE IT FURTHER ENACTED, That:

(a) The State Board of Elections shall conduct an accessibility and usability evaluation of the online ballot marking tool authorized under this Act to assess its accessibility and usability by voters with disabilities, including:

(1) a public demonstration of the system; and

(2) an evaluation by individuals representing a cross–section of voters with disabilities.

(b) The State Board shall conduct the accessibility and usability evaluation under this section before approving an online ballot marking tool for use by voters with disabilities.

(c) The State Board shall submit a report summarizing the results of the evaluation under this section on or before December 31, 2013, to the Senate Education, Health, and Environmental Affairs Committee and House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.

SECTION ~~5.~~ 7. AND BE IT FURTHER ENACTED, That:

(a) The State Board of Elections shall engage an independent consultant to study and make recommendations on improving the security of:

(1) online delivery and marking of absentee ballots and the return and tabulation of absentee ballots that are delivered and marked electronically;

(2) other online voter services, including online voter registration and online absentee ballot applications; and

(3) any other voting technology specified by the State Board.

(b) The independent consultant shall submit a report of its findings and recommendations on or before December 31, 2013, to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means in accordance with § 2–1246 of the State Government Article.

SECTION 8. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2016.

SECTION ~~2.~~ ~~6.~~ 9. AND BE IT FURTHER ENACTED, That except as provided in Section 8 of this Act, this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 159

(House Bill 228)

AN ACT concerning

Maryland Health Progress Act of 2013

FOR the purpose of altering certain eligibility requirements for the Maryland Medical Assistance Program and a certain definition to conform to federal eligibility requirements; requiring the Department of Health and Mental Hygiene to implement certain provisions of federal law, subject to the limitations of the State budget; repealing an obsolete provision of law that requires the Governor to include certain funding in the State budget; authorizing the Secretary of Health and Mental Hygiene to provide certain grants for a certain purpose; expanding the purposes for which funds generated from a certain assessment may be used to include providing funding for a certain reinsurance program; ~~establishing the Performance Standards and Measurement Advisory Committee in the Department; providing for the purposes, membership, chair, and duties of the Committee;~~ exempting from the insurance premium tax a qualified nonprofit health insurance issuer that meets certain requirements; requiring a portion of a certain tax to be distributed, beginning on a certain date, annually to the Maryland Health Benefit Exchange Fund for a certain purpose; exempting the Maryland Health Benefit Exchange (Exchange) and its employees from certain provisions of law governing third party administrators; expanding the purposes for which the Maryland Health Insurance Plan Fund may be used to include funding a certain reinsurance program; requiring enrollment in the Maryland Health Insurance Plan (Plan) to be closed to certain individuals not enrolled in the Plan as of a certain date; prohibiting certain individuals from reenrolling in the Plan under certain circumstances; requiring the Board of the Plan, in consultation with the Exchange, to determine the appropriate date on which the Plan must decline reenrolling Plan members;

requiring the Board of the Plan to provide certain notice to Plan members beginning on a certain date; requiring the Plan Administrator to deposit certain money in a certain separate account and to keep certain records; authorizing the transfer, under certain circumstances, of certain money in the separate account to the Maryland Health Benefit Exchange Fund for the purpose of funding a certain reinsurance program; requiring the Board of the Plan and the Board of Trustees of the Exchange to develop and approve a plan for the amount and timing of the use of certain funds for a certain reinsurance program; requiring the Board of the Plan and the Board of Trustees of the Exchange to report on certain matters at certain times; establishing the purpose and effect of certain provisions of this Act; exempting certain carriers that offer certain plans from a certain requirement under certain circumstances; requiring certain carriers and managed care organizations to accept a ~~prior authorization~~ preauthorization from certain carriers and managed care organizations under certain circumstances; requiring certain carriers and managed care organizations to allow a new enrollee to continue to receive certain health care services being rendered by a certain provider under certain circumstances; providing for the application of certain requirements relating to preauthorizations and continuity of health care services; exempting enrollees transitioning from a carrier to the Maryland Medical Assistance fee–for–service program from the preauthorization and continuity of health care services requirements; requiring certain providers and certain carriers or managed care organizations to agree on the compensation rates and methods of payment with respect to the provision of certain services; specifying certain requirements for the agreement; providing that if an agreement is not reached, the provider is not required to continue to provide the services and the carrier or managed care organization ~~is not required to allow the services to be provided by the provider~~ must facilitate transition of the enrollee to a provider on the provider panel of the carrier or managed care organization; authorizing a relinquishing carrier to elect to allow an enrollee to continue to receive dental services provided by a participating provider of the relinquishing carrier through a certain arrangement; providing that the requirements of certain provisions of this Act are in addition to any other legal, professional, or ethical obligations of a carrier or managed care organization to provide continuity of care; authorizing the Maryland Insurance Commissioner and the Secretary of Health and Mental Hygiene to each adopt regulations to enforce certain provisions of this Act; requiring the Commissioner, the Secretary, and the Exchange to determine the data necessary to make a certain assessment and develop a certain process ~~and to request the data from certain persons~~; requiring certain persons to provide the data on request; establishing that it is a fraudulent insurance act for a person to act or represent that the person is a SHOP Exchange navigator ~~or~~, an Individual Exchange navigator, or certain application counselor ~~to take certain actions or make certain representations~~ under certain circumstances; exempting the Exchange from certain insurance laws; ~~requiring a carrier, under certain circumstances, to retain responsibility for ensuring that certain consumer protections are afforded to certain employers and enrollees~~ providing that a carrier is not liable or subject to certain regulatory sanction under certain

circumstances; requiring the Commissioner to regulate the Exchange in taking certain actions; prohibiting the Commissioner from imposing a fine or administrative penalty on the Exchange for failing to take certain actions; authorizing the Commissioner to require the Exchange to make certain restitution to certain consumers under certain circumstances; requiring the Exchange and certain carriers to hold a consumer harmless from certain consequences caused by a certain action of the Exchange; prohibiting the Commissioner from participating in certain matters as a member of the Board of Trustees of the Exchange under certain circumstances; requiring the Board of Trustees of the Exchange to establish a certain committee; expanding the purposes of the Maryland Health Benefit Exchange Fund to include providing funding for the establishment and operation of a certain reinsurance program; altering the contents of the Fund; requiring the Board of Trustees of the Exchange to maintain certain accounts within the Fund; requiring certain funds to be placed in a certain account for a certain purpose; establishing certain restrictions on certain expenditures from the Fund; requiring certain funds in a certain account to revert to the General Fund of the State under certain circumstances; requiring certain operating expenses to be charged to a certain fund source under certain circumstances; requiring the Board of Trustees to establish a trust account for a certain purpose; requiring the Board of Trustees to maintain separate records of account for certain carriers; requiring the Governor, for certain fiscal years, to provide an appropriation in the State budget from certain funds received from a certain premium tax adequate to fully fund the operations of the Exchange; requiring ~~the appropriation to be allocated from a certain premium tax~~ a certain minimum appropriation for certain fiscal years; authorizing a certain deficiency appropriation; requiring certain funds to revert to the General Fund of the State; requiring the Exchange to comply with certain federal law in carrying out certain functions; providing that a certain employer is not required to contribute to the qualified plan premiums of its employees; requiring a certain employer to take certain actions if the employer chooses to contribute to the qualified premiums of its employees; authorizing the Exchange to establish a Consolidated Services Center (Center) under certain circumstances; applying certain provisions of law that require certain training for SHOP Exchange navigators to certain employees of the Center; authorizing an Individual Exchange navigator to be employed by the Exchange; requiring the Exchange to establish and administer a process for the issuance of Consolidated Services Center employee Individual Exchange enrollment permits; authorizing the Exchange to implement a certain process with certain assistance; applying certain provisions of law that require certain training for Individual Exchange navigators to certain employees of the Center; clarifying the circumstances of individuals whom the Individual Exchange shall assist in making a certain transition; requiring the training program for insurance producers who sell qualified plans in the Individual Exchange to impart certain skills and expertise; authorizing, until a certain date, a captive producer without a certain certification to enroll certain individuals in a qualified plan offered in the Individual Exchange by a certain carrier; requiring a captive producer to refer certain individuals to an insurance producer under

certain circumstances, with certain exceptions; requiring a captive producer to make a certain disclosure; establishing requirements a carrier and its captive producers must meet in offering information and assistance to the carrier's current enrollees; prohibiting a captive producer from providing information or services related to health benefit plans or other products not offered by the captive producer's carrier; requiring a captive producer to make certain referrals under certain circumstances; authorizing the Exchange to designate certain entities as application counselor sponsoring entities and to certify certain individuals as application counselors; establishing requirements for application counselor sponsoring entities and application counselors to provide certain services; providing that an application counselor is subject to certain requirements; authorizing the Exchange, in consultation with the Commissioner and the Department, to establish requirements for an application counselor sponsoring entity and to adopt regulations relating to application counselor sponsoring entities and application counselors; authorizing the Center to employ certain individuals; specifying the qualifications that must be met for issuance of a SHOP Exchange enrollment permit and an Individual Exchange enrollment permit; requiring the Exchange, the Center, and Center employees to assist the Health Education and Advocacy Unit of the Office of the Attorney General in carrying out certain duties; altering the requirements that must be met for a health benefit plan to be certified as a qualified health plan; altering requirements for qualified health plans relating to vision benefits; authorizing the Exchange to require children enrolling in a qualified health plan to have certain dental benefits; authorizing the Exchange to deny certification to certain plans or suspend or revoke certification of certain plans under certain circumstances; authorizing the Exchange, in addition to denying, suspending, or revoking certification, to impose certain other remedies or take other actions; requiring the Exchange to consider certain factors in determining the amount of a certain penalty; establishing a process through which a carrier or plan may appeal a certain order or decision; authorizing the Exchange, in consultation with the Maryland Health Care Commission and with the approval of the Commissioner, to establish a certain reinsurance program to take effect on or after a certain date; establishing the purpose of the program; authorizing the Exchange, with the approval of and in collaboration with the Board of the Plan, to use certain revenue to fund the program; specifying the types of discrimination the Exchange shall be designed to prevent; altering the requirements for an annual report on the activities, expenditures, and receipts of the Exchange; altering the circumstances under which the Board of Trustees of the Exchange must cooperate with certain investigations; declaring the intent of the General Assembly; requiring the Exchange, the Department of Health and Mental Hygiene, ~~and~~ the Maryland Insurance Administration, and the Maryland Health Care Commission to conduct a certain study and report to the Governor and the General Assembly on the findings of the study and certain recommendations on or before a certain date; requiring the Exchange and the Administration to conduct a study of the impact of the Affordable Care Act's allowance of a certain tobacco use rating and to report to the Governor and the General Assembly on the findings of the study and certain recommendations on

or before a certain date; authorizing the Board of Trustees of the Exchange to adopt certain interim policies, for certain purposes after receiving certain comment; requiring the interim policies to be submitted as proposed regulations within a certain period after adoption and to sunset within a certain time after submission as proposed regulations; requiring the Exchange and the Administration to conduct a study of the impact of federal regulations governing the offering and purchase of pediatric dental benefits and to report to the Governor and General Assembly on their findings and recommendations on or before a certain date; requiring the Exchange and the Administration to conduct a study of a certain captive producer program and to report to the Governor and General Assembly on their findings and recommendations on or before a certain date; defining certain terms; altering certain definitions; making certain conforming changes; ~~providing for the initial terms of the members of the Performance Standards and Measurement Advisory Committee;~~ providing for the termination of certain provisions of this Act; providing for the effective dates of this Act; and generally relating to health insurance regulation and the Maryland Health Benefit Exchange.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–101(a) and 19–214(a) through (c)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–101(d–1), 15–103(a), 19–143(a), and 19–214(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

~~BY adding to~~
~~Article – Health – General~~
~~Section 20–1501 to be under the new subtitle "Subtitle 15. Performance Standards and Measurement Advisory Committee"~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, without amendments,~~
~~Article – Insurance~~
~~Section 8–301(a) and 31–101(a)~~
~~Annotated Code of Maryland~~
~~(2011 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Insurance
Section 6–101(b), 8–301(b), 14–502, 14–504, ~~15–1303(b),~~ 27–405(a), 31–101(i), (k), and (l), 31–103, 31–106(g), 31–107, 31–108(c), (d), and (e), 31–111,

31–112(h), ~~31–113(h), (i), and (k)(1) and (2)~~ 31–113(a)(5), (b), (e), (f), (g), (h), (i), (k)(1) and (2), (l)(4), (m), (o), and (p), 31–114(a), 31–115(b), (d), (h), and (i)(3), 31–116(a), 31–117, and ~~31–119(e)~~ 31–119(a), (d), and (e)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Insurance
Section 6–103.2, 15–140, ~~31–101(c–1)~~ 31–101(a–1), (a–2), (c–1), and (c–2), 31–107.1, 31–107.2, 31–108(c), 31–113(p) and (r), 31–113.1, and 31–115(k)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 8–301(a), 31–101(a), 31–113(a)(1), and 31–115(e)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–1303(b)(2)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)
(As enacted by Chapter 152 of the Acts of the General Assembly of 2012)

Preamble

WHEREAS, The federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended by the federal Health Care and Education Reconciliation Act of 2010, gives states tools to expand access, enhance quality, and address the costs of health care for individuals, families, and small employers; and

WHEREAS, To this end, the Affordable Care Act requires, by January 1, 2014, the establishment of a health benefit exchange in each state that makes available qualified health plans to qualified individuals and employers, and meets certain other requirements; and

WHEREAS, Maryland's Health Benefit Exchange, if successful, will make health care coverage accessible to hundreds of thousands of Marylanders who otherwise would not be able to obtain the insurance necessary for financial security, health, and well–being; and

WHEREAS, To ensure that each state's lowest–income individuals and families also have access to care, the Affordable Care Act affords states the opportunity to expand eligibility for their Medicaid programs beginning January 1, 2014; and

WHEREAS, Maryland's expansion of Medicaid will enable the State to cover for the first time hundreds of thousands of Maryland citizens with incomes below 138% of federal poverty guidelines who have never before had coverage; and

WHEREAS, The federal government will fund this expansion of Medicaid eligibility in full for the first 3 years, and in 2017 will require the State gradually to contribute up to 10% by 2020; and

WHEREAS, In addition to those who will secure access to health coverage for the first time, Maryland's Health Benefit Exchange and Medicaid expansion will benefit all Marylanders, as broader coverage results in decreased uncompensated care, improved population health, increased premium and hospital revenues, and reduced health care costs; and

WHEREAS, The Maryland Health Benefit Exchange Act of 2011, enacted by Chapter 2 of the Acts of 2011, established the governance and structure of the Maryland Health Benefit Exchange (Exchange); and

WHEREAS, The Maryland Health Benefit Exchange Act of 2012, enacted by Chapter 152 of the Acts of 2012, put in place many of the Exchange Board's initial policy recommendations, developed with the input of its advisory groups and in accordance with its guiding principles, necessary to establish and operate a successful Exchange; and

WHEREAS, These guiding principles – accessibility, affordability, sustainability, stability, health equity, flexibility, and transparency – reflect the State's goals for establishing a successful Exchange and ensuring that the Exchange's policies, functions and operations (1) make health care coverage more accessible to more Marylanders; (2) promote affordable coverage; (3) contribute to the Exchange's long–term sustainability; (4) build on the strengths of the State's existing health care, health insurance, and health insurance distribution systems to support the Exchange's stability; (5) address longstanding disparities in health care access and outcomes; (6) facilitate flexibility for the Exchange to respond to changes in the insurance market, health care delivery system, and economic conditions while also maintaining sensitivity and responsiveness to consumer needs; and (7) function with the transparency necessary to render it accountable, accessible, and easily understood by the public; and

WHEREAS, In accordance with these principles, the State seeks to put in place some remaining policies, including a dedicated revenue stream to ensure the Exchange's long–term financial sustainability, which are necessary to comply with federal requirements for certification and to complete development of the Exchange by January 1, 2014; and

WHEREAS, The State also seeks a stable, minimally disruptive transition of its high–risk population currently covered by the Maryland Health Insurance Plan into the Exchange; and

WHEREAS, The State also seeks the flexibility to establish a State reinsurance program to enhance the affordability of health insurance by mitigating the rate impact of high–risk enrollees in the individual insurance market inside and outside the Exchange; and

WHEREAS, The State seeks to take full advantage of the opportunity to expand Medicaid coverage for its most financially vulnerable individuals and families; and

WHEREAS, Recognizing also that many Marylanders will transition among qualified health plans inside and outside the Exchange, and between the Exchange and Medicaid, and in accordance with the recommendations of the study mandated by the Maryland Health Benefit Exchange Act of 2012, the State seeks to advance its progress in preventing harmful disruptions of care; and

WHEREAS, The State seeks to enact at this time those Exchange policies, changes in Medicaid eligibility, and continuity of care recommendations that are necessary to ensure that the full benefits of the Affordable Care Act are available to all Marylanders; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

15–101.

(a) In this title the following words have the meanings indicated.

(d–1) "~~Independent~~ **FORMER** foster care adolescent" means an individual:

(1) Who is under **[**21**] 26** years of age; and

(2) Who, on the individual's 18th birthday, was in foster care under the responsibility of the State**, ANY OTHER STATE, OR THE DISTRICT OF COLUMBIA**.

15–103.

(a) (1) The Secretary shall administer the Maryland Medical Assistance Program.

(2) The Program:

(i) Subject to the limitations of the State budget, shall provide medical and other health care services for indigent individuals or medically indigent individuals or both;

(ii) Shall provide, subject to the limitations of the State budget, comprehensive medical and other health care services for all eligible pregnant women whose family income is at or below 250 percent of the poverty level, as permitted by the federal law;

(iii) Shall provide, subject to the limitations of the State budget, comprehensive medical and other health care services for all eligible children currently under the age of 1 whose family income falls below 185 percent of the poverty level, as permitted by federal law;

(iv) Beginning on January 1, 2012, shall provide, subject to the limitations of the State budget, family planning services to all women whose family income is at or below 200 percent of the poverty level, as permitted by federal law;

(v) Shall provide, subject to the limitations of the State budget, comprehensive medical and other health care services for all children from the age of 1 year up through and including the age of 5 years whose family income falls below 133 percent of the poverty level, as permitted by the federal law;

(vi) **[**Shall**] BEGINNING ON JANUARY 1, 2014, SHALL** provide, subject to the limitations of the State budget, comprehensive medical care and other health care services for all children who are at least 6 years of age but are under 19 years of age whose family income falls below **[**100**] 133** percent of the poverty level, as permitted by federal law;

(vii) Shall provide, subject to the limitations of the State budget, comprehensive medical care and other health care services for all legal immigrants who meet Program eligibility standards and who arrived in the United States before August 22, 1996, the effective date of the federal Personal Responsibility and Work Opportunity Reconciliation Act, as permitted by federal law;

(viii) Shall provide, subject to the limitations of the State budget and any other requirements imposed by the State, comprehensive medical care and other health care services for all legal immigrant children under the age of 18 years and pregnant women who meet Program eligibility standards and who arrived in the United States on or after August 22, 1996, the effective date of the federal Personal Responsibility and Work Opportunity Reconciliation Act;

[(ix) Beginning on July 1, 2008, shall provide, subject to the limitations of the State budget, and as permitted by federal law, comprehensive medical care and other health care services for all parents and caretaker relatives:

1. Who have a dependent child living in the parents' or caretaker relatives' home; and

2. Whose annual household income is at or below 116 percent of the poverty level;

(x)**] (IX)** Beginning on **[**July 1, 2008**] JANUARY 1, 2014**, shall provide, subject to the limitations of the State budget, and as permitted by federal law, medical care and other health care services for adults**[**:

1. Who do not meet requirements, such as age, disability, or parent or caretaker relative of a dependent child, for a federal category of eligibility for Medicaid;

2. Whose**] WHOSE** annual household income is at or below **[**116**] 133** percent of the poverty level; **[**and

3. Who are not enrolled in the federal Medicare program, as enacted by Title XVIII of the Social Security Act;**]**

[(xi)**] (X)** ~~Shall provide, subject~~ **SUBJECT** to the limitations of the State budget, and as permitted by federal law~~,~~**:**

1. SHALL PROVIDE comprehensive medical care and other health care services for ~~independent~~ **FORMER** foster care adolescents~~:~~

~~1. Who~~ **WHO, ON THEIR 18TH BIRTHDAY, WERE IN FOSTER CARE UNDER THE RESPONSIBILITY OF THE STATE AND** are not otherwise eligible for Program benefits; and

2. ~~Whose annual household income is at or below 300 percent of the poverty level~~ **MAY PROVIDE COMPREHENSIVE MEDICAL CARE AND OTHER HEALTH CARE SERVICES FOR FORMER FOSTER CARE ADOLESCENTS WHO, ON THEIR 18TH BIRTHDAY, WERE IN FOSTER CARE UNDER THE RESPONSIBILITY OF ANY OTHER STATE OR THE DISTRICT OF COLUMBIA**;

[(xii)**] (XI)** May include bedside nursing care for eligible Program recipients; and

[(xiii)**] (XII)** Shall provide services in accordance with funding restrictions included in the annual State budget bill.

(3) Subject to restrictions in federal law or waivers, the Department may:

(i) Impose cost–sharing on Program recipients; and

(ii) For adults who do not meet requirements for a federal category of eligibility for Medicaid:

1. Cap enrollment; and

2. Limit the benefit package**[**, except that substance abuse services shall be provided that are at least equivalent to the substance abuse services provided to adults under paragraph (2)(ix) of this subsection**]**.

[(4) In fiscal year 2011 and each fiscal year thereafter, the Governor shall include in the State budget funding sufficient to provide the substance abuse benefits required under paragraph (3)(ii)2 of this subsection.**]**

(4) SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE DEPARTMENT SHALL IMPLEMENT THE PROVISIONS OF TITLE II OF THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, TO INCLUDE:

(I) PARENTS AND CARETAKER RELATIVES WHO HAVE A DEPENDENT CHILD LIVING IN THE PARENTS' OR CARETAKER RELATIVES' HOME; AND

(II) ADULTS WHO DO NOT MEET REQUIREMENTS, SUCH AS AGE, DISABILITY, OR PARENT OR CARETAKER RELATIVE OF A DEPENDENT CHILD, FOR A FEDERAL CATEGORY OF ELIGIBILITY FOR MEDICAID AND WHO ARE NOT ENROLLED IN THE FEDERAL MEDICARE PROGRAM, AS ENACTED BY TITLE XVII OF THE SOCIAL SECURITY ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

19–143.

(a) **(1)** On or before October 1, 2009, the Commission and the Health Services Cost Review Commission shall designate a health information exchange for the State.

(2) THE SECRETARY, TO ALIGN FUNDING OPPORTUNITIES WITH THE PURPOSES OF THIS SECTION AND THE DEVELOPMENT AND EFFECTIVE OPERATION OF THE STATE'S HEALTH INFORMATION EXCHANGE, MAY PROVIDE

GRANTS TO THE HEALTH INFORMATION EXCHANGE DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

19–214.

(a) The Commission shall assess the underlying causes of hospital uncompensated care and make recommendations to the General Assembly on the most appropriate alternatives to:

(1) Reduce uncompensated care; and

(2) Assure the integrity of the payment system.

(b) The Commission may adopt regulations establishing alternative methods for financing the reasonable total costs of hospital uncompensated care and the disproportionate share hospital payment provided that the alternative methods:

(1) Are in the public interest;

(2) Will equitably distribute the reasonable costs of uncompensated care and the disproportionate share hospital payment;

(3) Will fairly determine the cost of reasonable uncompensated care and the disproportionate share hospital payment included in hospital rates;

(4) Will continue incentives for hospitals to adopt fair, efficient, and effective credit and collection policies; and

(5) Will not result in significantly increasing costs to Medicare or the loss of Maryland's Medicare Waiver under § 1814(b) of the Social Security Act.

(c) Any funds generated through hospital rates under an alternative method adopted by the Commission in accordance with subsection (b) of this section may only be used to finance the delivery of hospital uncompensated care and the disproportionate share hospital payment.

(d) (1) Each year, the Commission shall assess a uniform, broad–based, and reasonable amount in hospital rates to:

(i) Reflect the aggregate reduction in hospital uncompensated care realized from the expansion of health care coverage under Chapter 7 of the Acts of the 2007 Special Session of the General Assembly; and

(ii) Operate and administer the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article.

(2) (i) For the portion of the assessment under paragraph (1)(i) of this subsection:

1. The Commission shall ensure that the assessment amount equals 1.25% of projected regulated net patient revenue; and

2. Each hospital shall remit its assessment amount to the Health Care Coverage Fund established under § 15–701 of this article.

(ii) Any savings realized in averted uncompensated care as a result of the expansion of health care coverage under Chapter 7 of the Acts of the 2007 Special Session of the General Assembly that are not subject to the assessment under paragraph (1)(i) of this subsection shall be shared among purchasers of hospital services in a manner that the Commission determines is most equitable.

(3) For the portion of the assessment under paragraph (1)(ii) of this subsection:

(i) The Commission shall ensure that the assessment:

1. Shall be included in the reasonable costs of each hospital when establishing the hospital's rates;

2. May not be considered in determining the reasonableness of rates or hospital financial performance under Commission methodologies; and

3. May not be less as a percentage of net patient revenue than the assessment of 0.8128% that was in existence on July 1, 2007; and

(ii) Each hospital shall remit monthly one–twelfth of the amount assessed under paragraph (1)(ii) of this subsection to the Maryland Health Insurance Plan Fund established under Title 14, Subtitle 5 of the Insurance Article, for the purpose of operating and administering the Maryland Health Insurance Plan.

(4) The assessment authorized under paragraph (1) of this subsection may not exceed 3% in the aggregate of any hospital's total net regulated patient revenue.

(5) **(I)** Funds generated from the assessment under this subsection may be used only as follows:

[(i)**]** **1.** To supplement coverage under the Medical Assistance Program beyond the eligibility requirements in existence on January 1, 2008; **AND**

[(ii)**]** **2.** To provide funding for the operation and administration of the Maryland Health Insurance Plan, including reimbursing the

Department for subsidizing the plan costs of members of the Maryland Health Insurance Plan under a Medicaid waiver program**[**; and**]**.

[(iii)**] (II)** Any funds remaining after expenditures under **[**items (i) and (ii)**] SUBPARAGRAPH (I)** of this paragraph have been made may be used **[**for**]:**

1. FOR the general operations of the Medicaid program**; AND**

2. TO PROVIDE FUNDING FOR THE STATE REINSURANCE PROGRAM AUTHORIZED UNDER § 31–117 OF THE INSURANCE ARTICLE.

~~**SUBTITLE 15. PERFORMANCE STANDARDS AND MEASUREMENT ADVISORY COMMITTEE.**~~

~~**20–1501.**~~

~~**(A) THERE IS A PERFORMANCE STANDARDS AND MEASUREMENT ADVISORY COMMITTEE IN THE DEPARTMENT.**~~

~~**(B) THE PURPOSES OF THE COMMITTEE ARE TO:**~~

~~**(1) DEVELOP PERFORMANCE MEASURES FOR EVALUATING HEALTH INSURANCE PLANS OFFERED IN THE PRIVATE INSURANCE MARKET IN THE STATE; AND**~~

~~**(2) SUPPORT A SYSTEM OF PUBLIC REPORTING ON THE PERFORMANCE OF THE HEALTH INSURANCE PLANS BASED ON THE PERFORMANCE MEASURES DEVELOPED.**~~

~~**(C) (1) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:**~~

~~**(I) THREE MEMBERS WHO REPRESENT HEALTH CARE PROVIDERS AND CARRIERS THAT OFFER HEALTH INSURANCE PLANS IN THE STATE, INCLUDING QUALIFIED HEALTH PLANS OFFERED IN THE MARYLAND HEALTH BENEFIT EXCHANGE;**~~

~~**(II) FOUR MEMBERS WHO REPRESENT STATE GOVERNMENT, SELECTED FROM AMONG THE FOLLOWING:**~~

~~**1. THE DEPARTMENT;**~~

~~2. THE MARYLAND INSURANCE ADMINISTRATION;~~

~~3. THE MARYLAND HEALTH BENEFIT EXCHANGE;~~

~~4. THE MARYLAND HEALTH CARE COMMISSION;~~

~~5. THE MARYLAND HEALTH QUALITY AND COST COUNCIL; AND~~

~~6. THE HEALTH SERVICES COST REVIEW COMMISSION;~~

~~(III) THREE EXPERTS IN THE FIELD OF PERFORMANCE MEASUREMENT WHO ARE AFFILIATED WITH AN INSTITUTION OF HIGHER EDUCATION IN THE STATE OR WHO CONDUCT OR ASSESS RESEARCH ON HOW HEALTH CARE DELIVERY SYSTEMS SHOULD BE STRUCTURED TO IMPROVE HEALTH OUTCOMES;~~

~~(IV) ONE REPRESENTATIVE OF A CONSUMER HEALTH CARE ADVOCACY ORGANIZATION; AND~~

~~(V) TWO CONSUMER MEMBERS.~~

~~(D) (1) THE TERM OF A MEMBER OF THE COMMITTEE IS 3 YEARS.~~

~~(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON JUNE 1, 2013.~~

~~(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(5) A MEMBER MAY NOT SERVE MORE THAN TWO 3–YEAR TERMS.~~

~~(E) THE GOVERNOR SHALL APPOINT A CHAIR FROM AMONG THE MEMBERS OF THE COMMITTEE WHO REPRESENT STATE GOVERNMENT.~~

~~(F) THE COMMITTEE SHALL:~~

~~(1) ESTABLISH AND OVERSEE A TRANSPARENT PROCESS FOR THE SELECTION OF PERFORMANCE MEASURES FOR EVALUATING HEALTH~~

~~INSURANCE PLANS OFFERED IN THE PRIVATE HEALTH INSURANCE MARKET IN THE STATE;~~

~~(2) ENSURE THAT THE PROCESS PROVIDES OPPORTUNITIES FOR PUBLIC COMMENT AND A MECHANISM FOR RESPONDING TO PUBLIC COMMENT;~~

~~(3) RECOMMEND PERFORMANCE MEASURES THAT:~~

~~(I) ARE EVIDENCE–BASED, CONSISTENT WITH NATIONALLY RECOGNIZED PRACTICE GUIDELINES, RELIABLE, VALID, APPLICABLE TO AVAILABLE DATABASES, AND APPROPRIATE FOR MARYLAND CONSUMERS OF HEALTH CARE; AND~~

~~(II) INCLUDE MEASURES OF PUBLIC HEALTH OUTCOMES;~~

~~(4) ADVISE THE DEPARTMENT, THE MARYLAND HEALTH BENEFIT EXCHANGE, THE MARYLAND HEALTH CARE COMMISSION, THE HEALTH SERVICES COST REVIEW COMMISSION, AND PRIVATE INSURERS ON USE OF THE PERFORMANCE MEASURES;~~

~~(5) SUPPORT THE ALIGNMENT OF PERFORMANCE MEASURES ACROSS HEALTH CARE PROGRAMS IN THE STATE; AND~~

~~(6) PROVIDE INPUT TO THE DEPARTMENT ON THE MOST EFFECTIVE METHOD OF INTEGRATING THE PERFORMANCE MEASURES DEVELOPED BY THE COMMITTEE INTO THE STATESTAT PROCESS.~~

~~(G) (1) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY ON ITS ACTIVITIES DURING THE PREVIOUS CALENDAR YEAR TO SUPPORT HEALTH CARE PERFORMANCE AND OUTCOME MEASURES.~~

~~(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE AN ASSESSMENT OF IMPROVEMENTS MADE IN HEALTH OUTCOMES AND CONSUMER SATISFACTION.~~

Article – Insurance

6–101.

(b) The following persons are not subject to taxation under this subtitle:

(1) a nonprofit health service plan corporation that meets the requirements established under §§ 14–106 and 14–107 of this article;

(2) a fraternal benefit society;

(3) a surplus lines broker, who is subject to taxation in accordance with Title 3, Subtitle 3 of this article;

(4) an unauthorized insurer, who is subject to taxation in accordance with Title 4, Subtitle 2 of this article;

(5) the Maryland Health Insurance Plan established under Title 14, Subtitle 5, Part I of this article;

(6) the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II of this article; **[**or**]**

(7) a nonprofit health maintenance organization authorized by Title 19, Subtitle 7 of the Health – General Article that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code**; AND**

(8) A QUALIFIED NONPROFIT HEALTH INSURANCE ISSUER THAT IS ESTABLISHED UNDER § 1322 OF THE AFFORDABLE CARE ACT.

6–103.2.

(A) (1) (I) NOTWITHSTANDING § 2–114 OF THIS ARTICLE, BEGINNING JANUARY 1, 2015, FROM THE TAX DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, A PORTION SHALL BE DISTRIBUTED ANNUALLY TO THE MARYLAND HEALTH BENEFIT EXCHANGE FUND ESTABLISHED UNDER § 31–107 OF THIS ARTICLE FOR THE SOLE PURPOSE OF FUNDING THE OPERATION AND ADMINISTRATION OF THE MARYLAND HEALTH BENEFIT EXCHANGE.

(II) THE OPERATION AND ADMINISTRATION OF THE MARYLAND HEALTH BENEFIT EXCHANGE MAY INCLUDE FUNCTIONS DELEGATED BY THE MARYLAND HEALTH BENEFIT EXCHANGE TO A THIRD PARTY UNDER LAW OR BY CONTRACT.

(2) (I) THE DISTRIBUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ALLOCATED FROM THE TAX IMPOSED ON A PERSON UNDER § 6–102 OF THIS SUBTITLE ON PREMIUMS FOR HEALTH INSURANCE.

(II) FOR PURPOSES OF THIS PARAGRAPH, "PERSON" DOES NOT INCLUDE:

1. A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE; OR

2. A FOR PROFIT HEALTH MAINTENANCE ORGANIZATION AUTHORIZED BY TITLE 19, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE.

(B) FOR STATE FISCAL YEAR 2015 AND EACH STATE FISCAL YEAR THEREAFTER, THE AMOUNT TO BE DISTRIBUTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE SUFFICIENT TO FULLY FUND THE OPERATION AND ADMINISTRATION OF THE MARYLAND HEALTH BENEFIT EXCHANGE FOR THE STATE FISCAL YEAR.

8–301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Administrator" means a person that, to the extent that the person acting for an insurer or plan sponsor, has:

(i) control over or custody of premiums, contributions, or any other money with respect to a plan, for any period of time; or

(ii) discretionary authority over the adjustment, payment, or settlement of benefit claims under a plan or over the investment of a plan's assets.

(2) "Administrator" does not include a person that:

(i) with respect to a particular plan:

1. is, or is an employee of, the plan sponsor;

2. is, or is an employee, insurance producer, managing general agent of, an insurer or health maintenance organization that insures or administers the plan; or

3. is an insurance producer that solicits, procures, or negotiates a plan for a plan sponsor and that has no authority over the adjustment, payment, or settlement of benefit claims under the plan or over the investment or handling of the plan's assets;

(ii) is retained by the Life and Health Insurance Guaranty Corporation to administer a plan underwritten by an impaired insurer that is subject to an order of conservation, liquidation, or rehabilitation;

(iii) is a participant or beneficiary of a plan that provides for individual accounts and allows a participant or beneficiary to exercise investment control over assets in the participant's or beneficiary's account, and the participant or beneficiary exercises that investment control;

(iv) administers only plans that are subject to ERISA and that do not provide benefits through insurance, unless any of the plans administered is a multiple employer welfare arrangement as defined in § 514(b)(6)(A)(ii) of ERISA;

(v) is, or is an employee of, a bank, savings bank, trust company, savings and loan association, or credit union that is regulated under the laws of this State, another state, or the United States; **[**or**]**

(vi) is, or is an employee of, a person that is registered as:

1. an investment adviser under the Investment Advisers Act of 1940 or the Maryland Securities Act;

2. a broker–dealer or transfer agent under the Securities Exchange Act of 1934 or the Maryland Securities Act; or

3. an investment company under the Investment Company Act of 1940**; OR**

(VII) IS, OR IS AN EMPLOYEE OF, THE MARYLAND HEALTH BENEFIT EXCHANGE, INCLUDING THE MARYLAND HEALTH BENEFIT EXCHANGE'S CONSOLIDATED SERVICES CENTER.

14–502.

(a) There is a Maryland Health Insurance Plan.

(b) The Plan is an independent unit of the State government.

(c) The purpose of the Plan is to decrease uncompensated care costs by providing access to affordable, comprehensive health benefits for medically uninsurable residents of the State by July 1, 2003.

(d) It is the intent of the General Assembly that the Plan operate as a nonprofit entity and that Fund revenue, to the extent consistent with good business practices, be used to**:**

(1) subsidize health insurance coverage for medically uninsurable individuals**; AND**

(2) FUND THE STATE REINSURANCE PROGRAM AUTHORIZED UNDER § 31–117 OF THIS ARTICLE.

(e) (1) The operations of the Plan are subject to the provisions of this subtitle whether the operations are performed directly by the Plan itself or through an entity contracted with the Plan.

(2) The Plan shall ensure that any entity contracted with the Plan complies with the provisions of this subtitle when performing services that are subject to this subtitle on behalf of the Plan.

(F) (1) (I) ENROLLMENT IN THE PLAN SHALL BE CLOSED TO ANY INDIVIDUAL WHO IS NOT ENROLLED IN THE PLAN AS OF DECEMBER 31, 2013.

(II) A MEMBER ENROLLED IN THE PLAN AS OF DECEMBER 31, 2013, WHO THEREAFTER TERMINATES ENROLLMENT MAY NOT REENROLL IN THE PLAN.

(2) ~~(I)~~ SUBJECT TO ~~SUBPARAGRAPH (II) OF THIS PARAGRAPH~~ PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD, IN CONSULTATION WITH THE MARYLAND HEALTH BENEFIT EXCHANGE, SHALL DETERMINE THE APPROPRIATE DATE ON WHICH THE PLAN SHALL DECLINE TO REENROLL PLAN MEMBERS BEYOND THE TERM OF THE MEMBERS' EXISTING PLAN COVERAGE.

~~(II)~~ (3) THE DATE ON WHICH THE PLAN NO LONGER WILL PROVIDE COVERAGE TO ~~ANY~~ ALL PLAN ~~MEMBER~~ MEMBERS SHALL BE NO EARLIER THAN JANUARY 1, ~~2015~~ 2014, AND NO LATER THAN JANUARY 1, 2020.

(G) BEGINNING OCTOBER 1, 2013, AND ANNUALLY THEREAFTER UNTIL THE PLAN NO LONGER PROVIDES COVERAGE TO MEMBERS, THE BOARD SHALL PROVIDE NOTICE TO PLAN MEMBERS THAT, EFFECTIVE JANUARY 1, 2014, THE MEMBER:

(1) MAY NOT BE DENIED HEALTH INSURANCE BECAUSE OF A PREEXISTING HEALTH CONDITION; AND

(2) MAY BE ELIGIBLE TO:

(I) ENROLL IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(II) PURCHASE A HEALTH BENEFIT PLAN OFFERED IN THE MARYLAND HEALTH BENEFIT EXCHANGE OR IN THE INSURANCE MARKET OUTSIDE THE MARYLAND HEALTH BENEFIT EXCHANGE; AND

(III) RECEIVE FEDERAL PREMIUM AND COST–SHARING ASSISTANCE FOR THE PURCHASE OF A HEALTH BENEFIT PLAN IN THE MARYLAND HEALTH BENEFIT EXCHANGE.

14–504.

(a) (1) There is a Maryland Health Insurance Plan Fund.

(2) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(3) The Treasurer shall separately hold and the Comptroller shall account for the Fund.

(4) The Fund shall be invested and reinvested at the direction of the Board in a manner that is consistent with the requirements of Title 5, Subtitle 6 of this article.

(5) Any investment earnings shall be retained to the credit of the Fund.

(6) On an annual basis, the Fund shall be subject to an independent actuarial review setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts.

(7) The Fund shall be used only to provide funding for the purposes authorized under this subtitle.

(b) The Fund shall consist of:

(1) premiums for coverage that the Plan issues;

(2) money collected in accordance with § 19–214(d) of the Health – General Article;

(3) money deposited by a nonprofit health service plan in accordance with § 14–513 of this subtitle;

(4) income from investments that the Board makes or authorizes on behalf of the Fund;

(5) interest on deposits or investments of money from the Fund;

(6) premium tax revenue collected under § 14–107 of this title;

(7) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund;

(8) money donated to the Fund; and

(9) money awarded to the Fund through grants.

(c) (1) The Board may allow the Administrator to use premiums collected by the Administrator from Plan enrollees to pay claims for Plan enrollees.

(2) The Administrator:

(i) shall deposit all premiums for Plan enrollees in a separate account, titled in the name of the State of Maryland, for the Maryland Health Insurance Plan; and

(ii) may use money in the account only to pay claims for Plan enrollees.

(3) The Administrator shall keep complete and accurate records of all transactions for the separate account.

(4) By the 15th of the following month, if monthly premiums collected by the Administrator exceed monthly claims received, the Administrator shall deposit the remaining balance, including interest, for that month in the Fund.

(D) (1) (I) THE ADMINISTRATOR SHALL DEPOSIT ALL MONEY COLLECTED IN ACCORDANCE WITH § 19–214(D)(1)(II) OF THE HEALTH – GENERAL ARTICLE IN A SEPARATE ACCOUNT, TITLED IN THE NAME OF THE STATE OF MARYLAND, FOR THE MARYLAND HEALTH INSURANCE PLAN.

(II) THE ADMINISTRATOR SHALL KEEP COMPLETE AND SEPARATE RECORDS OF ALL TRANSACTIONS FOR THE SEPARATE ACCOUNT.

(2) BEGINNING JANUARY 1, ~~2015~~ 2014, AND SUBJECT TO § 19–214(D)(5) OF THE HEALTH – GENERAL ARTICLE AND PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD MAY ALLOW THE ADMINISTRATOR TO TRANSFER MONEY IN THE SEPARATE ACCOUNT INTO THE MARYLAND HEALTH BENEFIT EXCHANGE FUND FOR THE PURPOSE OF FUNDING THE STATE REINSURANCE PROGRAM AUTHORIZED UNDER § 31–117 OF THIS ARTICLE.

(3) A TRANSFER OF MONEY UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(I) SHALL BE BASED ON THE DETERMINATION OF FUNDING NEEDS OF THE PLAN AND THE STATE REINSURANCE PROGRAM MADE UNDER PARAGRAPH (4) OF THIS SUBSECTION; AND

(II) MAY BE MADE ONLY FROM MONEY IN THE SEPARATE ACCOUNT IN EXCESS OF THE AMOUNT DETERMINED UNDER PARAGRAPH (4)(I) OF THIS SUBSECTION.

(4) ON OR BEFORE OCTOBER 1, 2013, AND ON OR BEFORE OCTOBER 1 OF EACH YEAR THEREAFTER UNTIL THE PLAN NO LONGER HAS ANY LIABILITY FOR CLAIMS SUBMITTED BY PLAN ENROLLEES, THE BOARD OF TRUSTEES OF THE MARYLAND HEALTH BENEFIT EXCHANGE AND THE BOARD OF THE PLAN SHALL DETERMINE:

(I) THE AMOUNT OF MONEY IN THE SEPARATE ACCOUNT THAT WILL BE NEEDED TO PAY CLAIMS OF PLAN ENROLLEES, SUPPORT PLAN OPERATIONS, AND OTHERWISE MEET THE OBLIGATIONS OF THE PLAN FOR THE FOLLOWING CALENDAR YEAR; AND

(II) THE AMOUNT OF MONEY THAT WILL BE NEEDED TO FUND THE OPERATIONS OF THE STATE REINSURANCE PROGRAM FOR THE FOLLOWING CALENDAR YEAR.

(5) ON OR BEFORE DECEMBER 31, 2013, AND ON OR BEFORE DECEMBER 31 OF EACH YEAR THEREAFTER UNTIL THE PLAN NO LONGER HAS ANY LIABILITY FOR CLAIMS SUBMITTED BY PLAN ENROLLEES AND THE STATE REINSURANCE PROGRAM IS TERMINATED, THE BOARD OF TRUSTEES OF THE MARYLAND HEALTH BENEFIT EXCHANGE AND THE BOARD SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE TRANSITION OF PLAN ENROLLEES OUT OF THE PLAN, INCLUDING:

1. HOW ENROLLEES ARE MADE AWARE OF CHANGES IN THEIR INSURANCE OPTIONS;

2. HOW ENROLLEES WILL BE ASSISTED THROUGH THE TRANSITION; AND

3. WHETHER ANY FUNDING WILL BE REQUIRED TO SUPPORT THE TRANSITION; AND

(II) THE USE OF THE FUND FOR THE STATE REINSURANCE PROGRAM.

[(d)**] (E)** (1) The Board shall take steps necessary to ensure that Plan enrollment does not exceed the number of enrollees the Plan has the financial capacity to insure.

(2) The Board may adopt regulations to limit the enrollment of otherwise eligible medically uninsurable individuals whose premium is paid for by a pharmaceutical manufacturer or its affiliate if the Board determines that their enrollment would have an adverse financial impact on the Plan.

[(e)**] (F)** (1) In addition to the operation and administration of the Plan, the Fund shall be used:

(i) for the operation and administration of the Senior Prescription Drug Assistance Program established under Part II of this subtitle; and

(ii) to support the Department of Health and Mental Hygiene for the provision of mental health services to the uninsured under Title 10, Subtitle 2 of the Health – General Article.

(2) The Board shall maintain separate accounts within the Fund for the Senior Prescription Drug Assistance Program and the Maryland Health Insurance Plan.

(3) Accounts within the Fund shall contain those moneys that are intended to support the operation of the Program for which the account is designated.

(4) (I) BEGINNING JANUARY 1, ~~2015~~ 2014, THE FUNDS COLLECTED IN ACCORDANCE WITH § 19–214(D)(1)(II) OF THE HEALTH – GENERAL ARTICLE AND DEPOSITED IN THE MARYLAND HEALTH INSURANCE PLAN ACCOUNT OF THE FUND, MAY BE USED FOR THE PURPOSES OF ESTABLISHING AND OPERATING THE STATE REINSURANCE PROGRAM AUTHORIZED UNDER § 31–117 OF THIS ARTICLE.

(II) THE BOARD AND THE BOARD OF TRUSTEES OF THE MARYLAND HEALTH BENEFIT EXCHANGE SHALL DEVELOP AND APPROVE A PLAN FOR THE APPROPRIATE AMOUNT AND TIMING OF THE USE OF THE FUNDS FOR THE STATE REINSURANCE PROGRAM.

[(f)**] (G)** A debt or obligation of the Plan is not a debt of the State or a pledge of credit of the State.

~~15–1303.~~

~~(b) (1) Except as provided in this subsection and § 31–110(f) of this article, a carrier may not offer individual health benefit plans in the State unless the carrier also offers qualified health plans, as defined in § 31–101 of this article, in the~~

~~Individual Exchange of the Maryland Health Benefit Exchange in compliance with the requirements of Title 31 of this article.~~

~~(2) A carrier is exempt from the requirement in paragraph (1) of this subsection if:~~

~~(i) **1.** the reported total aggregate annual earned premium from all individual health benefit plans in the State for the carrier and any other carriers in the same insurance holding company system, as defined in § 7–101 of this article, is less than $10,000,000**; OR**~~

~~**2. THE ONLY INDIVIDUAL HEALTH BENEFIT PLANS THAT THE CARRIER OFFERS IN THE STATE ARE STUDENT HEALTH PLANS AS DEFINED IN 45 C.F.R. § 147.145**;~~

~~(ii) the Commissioner determines that the carrier complies with the procedures established under paragraph (3) of this subsection; and~~

~~(iii) when the carrier ceases to meet the requirements for the exemption, the carrier provides to the Commissioner immediate notice and its plan for complying with the requirement in paragraph (1) of this subsection.~~

27–405.

(a) It is a fraudulent insurance act for a person to act as or represent to the public that the person is**:**

(1) an insurance producer or a public adjuster in the State if the person has not received the appropriate license under or otherwise complied with Title 10 of this article**;**

(2) A NAVIGATOR OF THE SMALL BUSINESS HEALTH OPTIONS PROGRAM OF THE MARYLAND HEALTH BENEFIT EXCHANGE IF THE PERSON HAS NOT RECEIVED THE APPROPRIATE LICENSE UNDER OR OTHERWISE COMPLIED WITH § 31–112 OF THIS ARTICLE; ~~OR~~

(3) A NAVIGATOR OF THE INDIVIDUAL EXCHANGE OF THE MARYLAND HEALTH BENEFIT EXCHANGE IF THE PERSON HAS NOT RECEIVED THE APPROPRIATE CERTIFICATION UNDER OR OTHERWISE COMPLIED WITH § 31–113 OF THIS ARTICLE; OR

(4) AN APPLICATION COUNSELOR CERTIFIED BY THE INDIVIDUAL EXCHANGE OF THE MARYLAND HEALTH BENEFIT EXCHANGE IF THE PERSON HAS NOT RECEIVED THE APPROPRIATE CERTIFICATION UNDER OR OTHERWISE COMPLIED WITH § 31–113(R) OF THIS ARTICLE.

31–101.

(a) In this title the following words have the meanings indicated.

(A–1) "APPLICATION COUNSELOR" MEANS AN INDIVIDUAL WHO HOLDS AN INDIVIDUAL EXCHANGE APPLICATION COUNSELOR CERTIFICATION ISSUED UNDER § 31–113(R) OF THIS TITLE.

(A–2) "APPLICATION COUNSELOR SPONSORING ENTITY" OR "SPONSORING ENTITY" MEANS AN ENTITY DESIGNATED BY THE INDIVIDUAL EXCHANGE AS A SPONSORING ENTITY UNDER § 31–113(R) OF THIS TITLE.

(C–1) "CAPTIVE PRODUCER" MEANS AN INSURANCE PRODUCER WHO:

(I) IS LICENSED IN THE STATE AND AUTHORIZED BY THE COMMISSIONER TO SELL, SOLICIT, OR NEGOTIATE HEALTH INSURANCE;

(II) RECEIVES AN AUTHORIZATION AND MEETS THE OTHER REQUIREMENTS SET FORTH IN § 31–113(N)(2) OF THIS TITLE;

(III) HAS A CURRENT AND EXCLUSIVE APPOINTMENT WITH A SINGLE CARRIER; AND

(IV) RECEIVES COMPENSATION AS A CAPTIVE PRODUCER ONLY FROM THAT CARRIER.

~~(C–1)~~ **(C–2) "CONSOLIDATED SERVICES CENTER" OR "CSC" MEANS THE CONSUMER ASSISTANCE CALL CENTER ESTABLISHED IN ACCORDANCE WITH THE REQUIREMENT TO OPERATE A TOLL–FREE HOTLINE UNDER § 1311(D)(4) OF THE AFFORDABLE CARE ACT AND § 31–108(B)(5) OF THIS TITLE.**

(i) "Individual Exchange navigator" means an individual who:

(1) holds an Individual Exchange navigator certification; and

(2) provides the services described in § 31–113(d)(1) of this title for an Individual Exchange **[**navigator**]** **CONNECTOR** entity.

(k) "Individual Exchange **[**navigator**]** **CONNECTOR** entity" means a community–based organization or other entity or a partnership of entities that:

(1) is authorized by the Individual Exchange under § 31–113(f) of this title; and

(2) employs or engages Individual Exchange navigators to provide the services described in § 31–113(d)(1) of this title.

(l) "Individual Exchange **[**navigator**]** **CONNECTOR** entity authorization" means a grant of authority from the Individual Exchange to an Individual Exchange **[**navigator**]** **CONNECTOR** entity under § 31–113(f) of this title.

31–103.

(a) The Exchange is subject to:

(1) the following provisions of the State Finance and Procurement Article:

(i) Title 12, Subtitle 4 (Policies and Procedures for Exempt Units); and

(ii) Title 14, Subtitle 3 (Minority Business Participation);

(2) the following provisions of the State Government Article:

(i) Title 10, Subtitle 1 (Governmental Procedures);

(ii) Title 10, Subtitle 5 (Meetings);

(iii) Title 10, Subtitle 6, Part III (Access to Public Records);

(iv) Title 12 (Immunity and Liability); and

(v) Title 15 (Public Ethics); and

(3) Title 5, Subtitle 3 of the State Personnel and Pensions Article.

(b) The Exchange is not subject to:

(1) taxation by the State or local government;

(2) Division II of the State Finance and Procurement Article, except as provided in subsection (a)(1) of this section;

(3) Title 10 of the State Government Article, except as provided in subsection (a)(2)(i), (ii), and (iii) of this section; **[**or**]**

(4) Division I of the State Personnel and Pensions Article, except as provided in subsection (a)(3) of this section and elsewhere in this title**; OR**

(5) THIS ARTICLE, EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION AND ELSEWHERE IN THIS TITLE.

~~(C) TO THE EXTENT THAT THE EXCHANGE, ACTING ON BEHALF OF A CARRIER OFFERING A QUALIFIED PLAN IN THE INDIVIDUAL EXCHANGE OR THE SHOP EXCHANGE, ASSUMES AN OBLIGATION BY CONTRACT OR OTHER AGREEMENT TO COLLECT PREMIUMS, CONDUCT BILLING, SEND REQUIRED NOTICES, PROVIDE REQUIRED DISCLOSURES, OR PERFORM ANY OTHER FUNCTION NORMALLY PERFORMED BY A CARRIER UNDER THIS ARTICLE, THE CARRIER SHALL RETAIN THE RESPONSIBILITY FOR ENSURING THAT THE CONSUMER PROTECTIONS REQUIRED BY THIS ARTICLE ARE AFFORDED THE SMALL EMPLOYER AND THE ENROLLEES IN THE QUALIFIED PLAN.~~

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, TO THE EXTENT THAT THE EXCHANGE, ACTING ON BEHALF OF A CARRIER OFFERING A QUALIFIED PLAN IN THE INDIVIDUAL EXCHANGE OR THE SHOP EXCHANGE, IS REQUIRED BY LAW OR CONTRACT TO COLLECT PREMIUMS, CONDUCT BILLING, SEND REQUIRED NOTICES, PROVIDE REQUIRED DISCLOSURES, OR TAKE ANY OTHER ACTION NORMALLY TAKEN BY A CARRIER UNDER THIS ARTICLE, THE CARRIER IS NOT LIABLE OR SUBJECT TO REGULATORY SANCTION BY THE COMMISSIONER FOR THE FAILURE OF THE EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION UNDER THIS SUBSECTION.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMMISSIONER SHALL REGULATE THE EXCHANGE IN TAKING AN ACTION UNDER THIS SUBSECTION.

(II) IF THE COMMISSIONER FINDS THAT THE EXCHANGE HAS FAILED TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION UNDER THIS SUBSECTION, THE COMMISSIONER:

1. MAY NOT IMPOSE A FINE OR AN ADMINISTRATIVE PENALTY ON THE EXCHANGE; AND

2. MAY REQUIRE THE EXCHANGE TO:

A. MAKE RESTITUTION, NOT TO EXCEED THE AMOUNT OF ACTUAL ECONOMIC DAMAGES SUSTAINED BY THE CONSUMER, TO A CONSUMER WHO HAS SUSTAINED ACTUAL ECONOMIC DAMAGES BECAUSE OF THE FAILURE OF THE EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION; AND

B. MAKE RESTITUTION, NOT TO EXCEED THE AMOUNT OF ACTUAL PREMIUM, PREMIUM SUBSIDIES, OR COST–SHARING SUBSIDIES THE CARRIER DID NOT RECEIVE, TO A CARRIER THAT HAS AUTHORIZED, PROVIDED, OR PAID FOR HEALTH CARE SERVICES WITHOUT RECEIVING PREMIUM, PREMIUM SUBSIDIES, OR COST–SHARING SUBSIDIES THE CARRIER OTHERWISE WOULD HAVE RECEIVED BUT FOR THE FAILURE OF THE EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION.

(3) (I) THE EXCHANGE AND THE CARRIER SHALL HOLD A CONSUMER HARMLESS FROM ANY ADVERSE CONSEQUENCE THAT IS:

1. RELATED TO THE CONSUMER'S PURCHASE OF, OR COVERAGE UNDER, A QUALIFIED PLAN; AND

2. CAUSED BY THE FAILURE OF THE EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION UNDER THIS SUBSECTION.

(II) HOLDING THE CONSUMER HARMLESS SHALL INCLUDE:

1. THE EXTENSION OF DEADLINES OR OTHER ACCOMMODATIONS NECESSARY TO PROTECT THE CONSUMER; AND

2. THE CARRIER'S AUTHORIZATION OF, PROVISION OF, OR PAYMENT FOR HEALTH CARE SERVICES THE CARRIER OTHERWISE WOULD BE UNDER AN OBLIGATION TO AUTHORIZE, PROVIDE, OR PAY FOR EXCEPT FOR THE FAILURE OF THE EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION UNDER THIS SUBSECTION.

(4) THE COMMISSIONER, IN THE COMMISSIONER'S ROLE AS A MEMBER OF THE BOARD, MAY NOT PARTICIPATE IN ANY MATTER THAT INVOLVES THE ALLEGED FAILURE OF THE EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION UNDER THIS SUBSECTION IF, IN THE COMMISSIONER'S JUDGMENT, THE COMMISSIONER'S PARTICIPATION MIGHT CREATE A CONFLICT OF INTEREST WITH RESPECT TO THE COMMISSIONER'S REGULATORY AUTHORITY OVER THE EXCHANGE'S TAKING AN ACTION UNDER THIS SUBSECTION.

(D) ~~THIS~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THIS SECTION DOES NOT:

(1) AFFECT THE COMMISSIONER'S AUTHORITY TO REGULATE A CARRIER UNDER THIS ARTICLE; OR

(2) LIMIT THE AUTHORITY OF THE COMMISSIONER TO TAKE ACTION AGAINST ANY PERSON WITH RESPECT TO ANY PROVISION OF THIS ARTICLE.

31–106.

(g) **(1)** To carry out the purposes of this title, the Board shall:

[(1)**]** **(I)** create and consult with **AD HOC** advisory committees; **AND**

[(2) have at least two standing advisory committees whose members, to the extent practicable, reflect the gender, racial, ethnic, and geographic diversity of the State; and

(3)**]** **(II)** appoint to the **AD HOC** advisory committees representatives of:

[(i)**]** **1.** insurers or health maintenance organizations offering health benefit plans in the State;

[(ii)**]** **2.** nonprofit health service plans offering health benefit plans in the State;

[(iii)**]** **3.** licensed health insurance producers and advisers;

[(iv)**]** **4.** third–party administrators;

[(v)**]** **5.** health care providers, including:

[1.**]** **A.** hospitals;

[2.**]** **B.** long–term care facilities;

[3.**]** **C.** mental health providers;

[4.**]** **D.** developmental disability providers;

[5.**]** **E.** substance abuse treatment providers;

[6.**]** **F.** Federally Qualified Health Centers;

[7.**]** **G.** physicians;

[8.**]** **H.** nurses;

[9.**] I.** experts in services and care coordination for criminal and juvenile justice populations;

[10.**] J.** licensed hospice providers; and

[11.**] K.** other health care professionals;

[(vi)**] 6.** managed care organizations;

[(vii)**] 7.** employers, including large, small, and minority–owned employers;

[(viii)**] 8.** public employee unions, including public employee union members who are caseworkers in local departments of social services with direct knowledge of information technology systems used for Medicaid eligibility determination;

[(ix)**] 9.** consumers, including individuals who:

[1.**] A.** reside in lower–income and racial or ethnic minority communities;

[2.**] B.** have chronic diseases or disabilities; or

[3.**] C.** belong to other hard–to–reach or special populations;

[(x)**] 10.** individuals with knowledge and expertise in advocacy for consumers described in item **[**(ix)**] 9** of this item;

[(xi)**] 11.** public health researchers and other academic experts with knowledge and background relevant to the functions and goals of the Exchange, including knowledge of the health needs and health disparities among the State's diverse communities; and

[(xii)**] 12.** any other stakeholders identified by the Exchange as having knowledge or representing interests relevant to the functions and duties of the Exchange.

(2) IN ADDITION TO THE AD HOC ADVISORY COMMITTEES CREATED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD, ON OR BEFORE MARCH 15, 2014, SHALL CREATE A STANDING ADVISORY COMMITTEE THAT:

(I) CONSISTS OF MEMBERS WHO, TO THE EXTENT PRACTICABLE:

1. REFLECT THE GENDER, RACIAL, ETHNIC, AND GEOGRAPHIC DIVERSITY OF THE STATE;

2. CONSTITUTE A DIVERSE CROSS–SECTION OF STAKEHOLDERS BROADLY REPRESENTATIVE OF THE INDIVIDUALS AND ENTITIES DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION; AND

3. ARE APPOINTED BY THE BOARD FOR A TERM OF NO MORE THAN 3 YEARS IN A MANNER THAT PROVIDES CONTINUITY AND ROTATION;

(II) HAS A LIAISON TO THE BOARD WHO IS A MEMBER OF THE BOARD AND IS APPOINTED BY THE CHAIR OF THE BOARD; AND

(III) IS CHARGED WITH THE RESPONSIBILITY OF ADDRESSING THE BROAD RANGE OF POLICY ISSUES:

1. ON WHICH THE BOARD MAY SEEK ITS INPUT AND ADVICE; AND

2. THAT MAY BE PROPOSED BY THE LIAISON TO THE BOARD, IN CONSULTATION WITH THE STANDING ADVISORY COMMITTEE CHAIR AND MEMBERS.

31–107.

(a) There is a Maryland Health Benefit Exchange Fund.

(b) **(1)** The purpose of the Fund is to**:**

~~**(1)**~~ **(I)** provide funding for the operation and administration of the Exchange in carrying out the purposes of the Exchange under this title**; AND**

~~**(2)**~~ **(II) PROVIDE FUNDING FOR THE ESTABLISHMENT AND OPERATION OF THE STATE REINSURANCE PROGRAM AUTHORIZED UNDER § 31–117 OF THIS TITLE**.

(2) THE OPERATION AND ADMINISTRATION OF THE EXCHANGE AND THE STATE REINSURANCE PROGRAM MAY INCLUDE FUNCTIONS DELEGATED BY THE EXCHANGE TO A THIRD PARTY UNDER LAW OR BY CONTRACT.

(c) The Exchange shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) any user fees or other assessments collected by the Exchange;

(2) ALL REVENUE DEPOSITED INTO THE FUND THAT IS RECEIVED FROM THE DISTRIBUTION OF THE PREMIUM TAX UNDER § 6–103.2 OF THIS ARTICLE;

~~(2)~~ (3) ALL REVENUE THAT IS DEPOSITED INTO THE FUND UNDER § 14–504(D) OF THIS ARTICLE FROM THE SEPARATE ACCOUNT OF THE MARYLAND HEALTH INSURANCE PLAN FUND THAT HOLDS MONEY COLLECTED UNDER § 19–214(D)(1)(II) OF THE HEALTH – GENERAL ARTICLE;

[(2)**]** **~~(3)~~ (4)** income from investments made on behalf of the Fund;

[(3)**]** **~~(4)~~ (5)** interest on deposits or investments of money in the Fund;

[(4)**]** **~~(5)~~ (6)** money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Exchange or the Fund;

[(5)**]** **~~(6)~~ (7)** money donated to the Fund;

[(6)**]** **~~(7)~~ (8)** money awarded to the Fund through grants; and

[(7)**]** **~~(8)~~ (9)** any other money from any other source accepted for the benefit of the Fund.

(f) The Fund may be used only **[**to provide funding**]:**

(1) for the operation and administration of the Exchange in carrying out the purposes authorized under this title**; AND**

(2) FOR THE ESTABLISHMENT AND OPERATION OF THE STATE REINSURANCE PROGRAM AUTHORIZED UNDER § 31–117 OF THIS TITLE.

(G) (1) THE BOARD SHALL MAINTAIN SEPARATE ACCOUNTS WITHIN THE FUND FOR EXCHANGE OPERATIONS AND FOR THE STATE REINSURANCE PROGRAM.

(2) ACCOUNTS WITHIN THE FUND SHALL CONTAIN THOSE MONEYS THAT ARE INTENDED TO SUPPORT THE PURPOSE FOR WHICH EACH ACCOUNT IS DESIGNATED.

(3) FUNDS RECEIVED FROM THE DISTRIBUTION OF THE PREMIUM TAX UNDER § 6–103.2 OF THIS ARTICLE SHALL BE PLACED IN THE ACCOUNT FOR EXCHANGE OPERATIONS AND MAY BE USED ONLY FOR THE PURPOSE OF FUNDING THE OPERATION AND ADMINISTRATION OF THE EXCHANGE.

(H) (1) EXPENDITURES FROM THE FUND FOR THE PURPOSES AUTHORIZED BY THIS SUBTITLE MAY BE MADE ONLY:

(I) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE GENERAL ASSEMBLY IN THE STATE BUDGET; OR

(II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN TITLE 7, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) NOTWITHSTANDING § 7–304 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IF THE AMOUNT OF THE DISTRIBUTION FROM THE PREMIUM TAX UNDER § 6–103.2 OF THIS ARTICLE EXCEEDS IN ANY STATE FISCAL YEAR THE ACTUAL EXPENDITURES INCURRED FOR THE OPERATION AND ADMINISTRATION OF THE EXCHANGE, FUNDS IN THE EXCHANGE OPERATIONS ACCOUNT FROM THE PREMIUM TAX THAT REMAIN UNSPENT AT THE END OF THE STATE FISCAL YEAR SHALL REVERT TO THE GENERAL FUND OF THE STATE.

(3) IF OPERATING EXPENSES OF THE EXCHANGE MAY BE CHARGED TO EITHER STATE OR NON–STATE FUND SOURCES, THE NON–STATE FUNDS SHALL BE CHARGED BEFORE STATE FUNDS ARE CHARGED.

[(g)**]** ~~**(H)**~~ **(I)** (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the Fund.

(3) ~~No~~ **EXCEPT AS PROVIDED IN SUBSECTION (H)(2) OF THIS SECTION, NO** part of the Fund may revert or be credited to the General Fund or any special fund of the State.

[(h)**]** ~~(I)~~ **(J)** A debt or an obligation of the Fund is not a debt of the State or a pledge of credit of the State.

31–107.1.

(A) THE BOARD SHALL ESTABLISH A TRUST ACCOUNT TO HOLD PREMIUM PAYMENTS ACCEPTED FROM QUALIFIED PLAN ENROLLEES AND SMALL EMPLOYERS BY THE EXCHANGE ON BEHALF OF A CARRIER UNDER CONTRACT OR OTHER AGREEMENT.

(B) THE TRUST ACCOUNT MAY BE USED ONLY TO HOLD A PREMIUM PAYMENT UNTIL THE EXCHANGE TRANSMITS THE PREMIUM PAYMENT TO THE CARRIER ON WHOSE BEHALF THE EXCHANGE ACCEPTED THE PREMIUM PAYMENT.

(C) THE EXCHANGE SHALL MAINTAIN SEPARATE RECORDS OF ACCOUNT FOR EACH CARRIER ON WHOSE BEHALF IT ACCEPTS PREMIUM PAYMENTS.

(D) THE PAYMENT OF A PREMIUM BY AN ENROLLEE OR A SMALL EMPLOYER TO THE EXCHANGE IS DEEMED TO BE A PAYMENT TO THE CARRIER ON WHOSE BEHALF THE EXCHANGE ACCEPTED THE PREMIUM PAYMENT.

31–107.2.

(A) (1) FOR STATE FISCAL YEAR 2015 AND FOR EACH STATE FISCAL YEAR THEREAFTER, FROM THE FUNDS ~~**DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION**~~ **RECEIVED FROM THE DISTRIBUTION OF THE PREMIUM TAX UNDER § 6–103.2 OF THIS ARTICLE, THE GOVERNOR SHALL PROVIDE AN APPROPRIATION IN THE STATE BUDGET ADEQUATE TO FULLY FUND THE OPERATIONS OF THE EXCHANGE.**

~~**(2) THE APPROPRIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ALLOCATED FROM THE PREMIUM TAX ASSESSED UNDER § 6–102 OF THIS ARTICLE THAT IS PAID BY:**~~

~~**(I) AN INSURER THAT OFFERS, ISSUES, OR DELIVERS A HEALTH BENEFIT PLAN IN THE STATE; AND**~~

~~**(II) A FOR–PROFIT HEALTH MAINTENANCE ORGANIZATION AUTHORIZED BY TITLE 19, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE.**~~

(2) (I) FOR STATE FISCAL YEAR 2015, THE APPROPRIATION SHALL BE NO LESS THAN $10,000,000.

(II) FOR EACH STATE FISCAL YEAR THEREAFTER, THE APPROPRIATION SHALL BE NO LESS THAN $35,000,000.

(B) FUNDS ALLOCATED FROM THE PREMIUM TAX UNDER SUBSECTION (A) OF THIS SECTION TO PROVIDE THE APPROPRIATION TO THE EXCHANGE MAY BE USED ONLY FOR THE PURPOSE OF FUNDING THE ~~OPERATIONS~~ OPERATION AND ADMINISTRATION OF THE EXCHANGE.

(C) IF, IN ANY STATE FISCAL YEAR, THE AMOUNT OF THE ALLOCATION FROM THE PREMIUM TAX IS INSUFFICIENT TO MEET THE ACTUAL EXPENDITURES INCURRED FOR THE OPERATION AND ADMINISTRATION OF THE EXCHANGE, THE GOVERNOR MAY PROVIDE AN ADDITIONAL APPROPRIATION BY DEFICIENCY APPROPRIATION.

(D) ~~FUNDS~~ NOTWITHSTANDING § 7–304 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, FUNDS ALLOCATED TO THE EXCHANGE UNDER THIS SECTION THAT REMAIN UNSPENT AT THE END OF A FISCAL YEAR SHALL REVERT TO THE GENERAL FUND OF THE STATE.

31–108.

(C) (1) IN CARRYING OUT THE FUNCTIONS UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION, THE EXCHANGE SHALL COMPLY WITH § 508 OF THE FEDERAL REHABILITATION ACT OF 1973 AND ANY REGULATIONS ADOPTED UNDER § 508 OF THE ACT.

(2) THE OBLIGATION FOR THE EXCHANGE TO COMPLY WITH § 508 OF THE FEDERAL REHABILITATION ACT OF 1973 DOES NOT AFFECT ANY OTHER REQUIREMENTS RELATING TO ACCESSIBILITY FOR PERSONS WITH DISABILITIES TO WHICH THE EXCHANGE MAY BE SUBJECT UNDER THE FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990.

[(c)**] (D)** If an individual enrolls in another type of minimum essential coverage, neither the Exchange nor a carrier offering qualified health plans through the Exchange may charge the individual a fee or penalty for termination of coverage on the grounds that:

(1) the individual has become newly eligible for that coverage; or

(2) the individual's employer–sponsored coverage has become affordable under the standards of § 36b(c)(2)(c) of the Internal Revenue Code.

[(d)**] (E)** The Exchange, through the advisory committees established under § 31–106(g) of this title or through other means, shall consult with and consider the

recommendations of the stakeholders represented on the advisory committees in the exercise of its duties under this title.

[(e)**]** **(F)** The Exchange may not make available:

(1) any health benefit plan that is not a qualified health plan;

(2) any dental plan that is not a qualified dental plan; or

(3) any vision plan that is not a qualified vision plan.

31–111.

(a) The SHOP Exchange:

(1) shall be a separate insurance market within the Exchange for small employers; and

(2) may not be merged with the individual market of the Individual Exchange.

(b) The SHOP Exchange shall be designed to balance:

(1) the viability of the SHOP Exchange as an alternative for qualified employers and their employees who have not been able historically to access and afford insurance in the small group market;

(2) the need for stability and predictability in employers' health insurance costs incurred on behalf of their employees;

(3) the desirability of providing employees with a meaningful choice among high–quality and affordable health benefit plans; and

(4) the need to facilitate continuity of care for employees who change employers or health benefit plans.

(c) The SHOP Exchange shall allow qualified employers to:

(1) as required by regulations adopted by the Secretary under the Affordable Care Act, designate a coverage level within which their employees may choose any qualified health plan; or

(2) designate a carrier or an insurance holding company system, as defined in § 7–101 of this article, and a menu of qualified health plans offered by the carrier or the insurance holding company system in the SHOP Exchange from which their employees may choose.

(d) In addition to the options set forth in subsection (c) of this section, the SHOP Exchange also may allow qualified employers to designate one or more qualified dental plans and qualified vision plans to be made available to their employees.

(E) (1) A QUALIFIED EMPLOYER IS NOT REQUIRED TO CONTRIBUTE TO THE QUALIFIED PLAN PREMIUMS OF ITS EMPLOYEES.

(2) (I) IF A QUALIFIED EMPLOYER CHOOSES TO CONTRIBUTE TO THE QUALIFIED PLAN PREMIUMS OF ITS EMPLOYEES, THE QUALIFIED EMPLOYER SHALL:

1. SELECT A REFERENCE PLAN ON WHICH THE CONTRIBUTIONS WILL BE BASED; AND

2. MAKE A CONTRIBUTION THAT IS:

A. A FIXED PERCENTAGE OF THE PREMIUM OF THE REFERENCE PLAN, BASED ON THE COVERAGE LEVEL SELECTED BY THE MEMBER AND THE MEMBER'S JOB CLASSIFICATION, IF OTHERWISE PERMISSIBLE; OR

B. A DOLLAR AMOUNT THAT ENSURES THAT ALL OF THE QUALIFIED EMPLOYER'S EMPLOYEES WITH THE SAME COVERAGE LEVEL AND JOB CLASSIFICATION WOULD PAY THE SAME AMOUNT IF THEY PURCHASED THE REFERENCE PLAN.

(II) A REFERENCE PLAN SELECTED UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH:

1. UNDER THE EMPLOYER CHOICE MODEL, SHALL BE A QUALIFIED PLAN THAT IS:

A. OFFERED BY THE CARRIER OR INSURANCE HOLDING COMPANY SYSTEM SELECTED BY THE QUALIFIED EMPLOYER; AND

B. AMONG THE QUALIFIED PLANS OF THE CARRIER OR INSURANCE HOLDING COMPANY SYSTEM SELECTED BY THE QUALIFIED EMPLOYER; OR

2. UNDER THE EMPLOYEE CHOICE MODEL, SHALL BE A QUALIFIED PLAN OFFERED BY ANY CARRIER AT THE METAL LEVEL SELECTED BY THE QUALIFIED EMPLOYER.

[(e)**] (F)** On or after January 1, 2016, in order to continue to promote the SHOP Exchange's principles of accessibility, choice, affordability, and sustainability, and as it obtains more data on adverse selection, cost, enrollment, and other factors, the SHOP Exchange:

(1) may reassess and modify the manner in which the SHOP Exchange allows qualified employers to offer, and their employees to choose, qualified health plans and coverage levels;

(2) in reassessing employer and employee choice, may consider options which would promote the additional objective of increasing the portability of employees' health insurance as employees move from employer to employer or transition in and out of employment; and

(3) shall implement any modification of offerings and choice through regulations adopted by the SHOP Exchange.

31–112.

(h) (1) The SHOP Exchange**, WITH THE APPROVAL OF THE COMMISSIONER AND IN CONSULTATION WITH STAKEHOLDERS,** shall develop, implement, and, as appropriate, update training programs for:

(i) SHOP Exchange navigators; **[**and**]**

(ii) licensed insurance producers who seek authorization to sell qualified plans in the SHOP Exchange**; AND**

(III) CONSOLIDATED SERVICES CENTER EMPLOYEES REQUIRED TO HOLD A SHOP EXCHANGE ENROLLMENT PERMIT.

(2) The training programs shall:

(i) impart the skills and expertise necessary to perform functions specific to the SHOP Exchange, such as making tax credit eligibility determinations; and

(ii) enable the SHOP Exchange's navigator program **AND THE CONSOLIDATED SERVICES CENTER** to provide robust protection of consumers and adherence to high quality assurance standards.

31–113.

(a) (1) There is a navigator program for the Individual Exchange.

(5) The Commissioner may require the Individual Exchange to:

(i) make available to the Commissioner all records, documents, data, and other information relating to the navigator program, including the authorization of Individual Exchange **[**navigator**]** **CONNECTOR** entities and the certification of Individual Exchange navigators; and

(ii) submit a corrective plan to take appropriate action to address any problems or deficiencies identified by the Commissioner in the Individual Exchange **[**navigator**]** **CONNECTOR** entity authorization process or the Individual Exchange navigator certification process.

(b) The navigator program for the Individual Exchange shall:

(1) focus outreach efforts and services on individuals without health insurance coverage;

(2) use Individual Exchange **[**navigator**]** **CONNECTOR** entities that:

(i) have expertise in working with vulnerable and hard–to–reach populations; and

(ii) conduct outreach and provide enrollment support for these populations; and

(3) enable the Individual Exchange to:

(i) comply with the Affordable Care Act by providing seamless entry into the Maryland Medical Assistance Program, the Maryland Children's Health Program, and qualified plans;

(ii) assist individuals who**, DUE TO FORMER INCARCERATION OR OTHER CIRCUMSTANCES,** transition between the types of coverage described in item (i) of this item or have lapsed enrollment; and

(iii) meet consumer needs and demands for health insurance coverage while maintaining high standards of quality assurance and consumer protection.

(e) (1) The Exchange may authorize an Individual Exchange **[**navigator**]** **CONNECTOR** entity to provide consumer assistance services that:

(i) are required to be provided by an Individual Exchange navigator; or

(ii) subject to paragraph (2)(iii) of this subsection, result in a consumer's enrollment in the Maryland Medical Assistance Program or the Maryland Children's Health Program.

(2) The Exchange:

(i) may limit the authorization of an Individual Exchange **[**navigator**]** **CONNECTOR** entity to the provision of a subset of services, depending on the needs of the Individual Exchange navigator program and the capacity of the Individual Exchange **[**navigator**]** **CONNECTOR** entity, provided that the navigator program overall provides the totality of services required by the Affordable Care Act and this subtitle;

(ii) pursuant to contractual agreement, may require an Individual Exchange **[**navigator**]** **CONNECTOR** entity to provide education, outreach, and other consumer assistance services in addition to the services provided under the Individual Exchange **[**navigator**]** **CONNECTOR** entity's authorization in order to achieve all of the objectives of the navigator program; and

(iii) may not authorize an Individual Exchange **[**navigator**]** **CONNECTOR** entity to provide services that result in a consumer's enrollment in the Maryland Medical Assistance Program or the Maryland Children's Health Program without the approval of the Department of Health and Mental Hygiene.

(f) An Individual Exchange **[**navigator**]** **CONNECTOR** entity:

(1) shall obtain authorization from the Individual Exchange to provide services that:

(i) are required to be provided by an Individual Exchange navigator; or

(ii) result in a consumer's enrollment in the Maryland Medical Assistance Program or the Maryland Children's Health Program;

(2) may provide:

(i) those services that are within the scope of the Individual Exchange **[**navigator**]** **CONNECTOR** entity's authorization; and

(ii) any other consumer assistance services that:

1. are not required to be provided by an Individual Exchange navigator; or

2. do not require authorization under this subsection;

(3) to the extent the scope of its authorization includes services that must be provided by an Individual Exchange navigator, shall provide those services only through Individual Exchange navigators;

(4) in addition to the services it may provide under its authorization, may employ or engage other individuals to conduct:

(i) consumer education and outreach; and

(ii) determinations of eligibility for premium subsidies and cost–sharing assistance, the Maryland Medical Assistance Program, and the Maryland Children's Health Program;

(5) may employ or engage individuals to perform activities that:

(i) are executive, administrative, managerial, or clerical; and

(ii) relate only indirectly to services that must be provided by an Individual Exchange navigator or result in a consumer's enrollment in the Maryland Medical Assistance Program or the Maryland Children's Health Program;

(6) shall comply with all State and federal laws, regulations, and policies governing the Maryland Medical Assistance Program and the Maryland Children's Health Program;

(7) may not receive any compensation, directly or indirectly:

(i) from a carrier, an insurance producer, or a third–party administrator in connection with the enrollment of a qualified individual in a qualified health plan; or

(ii) from any managed care organization that participates in the Maryland Medical Assistance Program in connection with the enrollment of an individual in the Maryland Medical Assistance Program or the Maryland Children's Health Program; and

(8) with respect to the insurance market outside the Exchange:

(i) may not provide any information or services related to health benefit plans or other products not offered in the Exchange, except for general information about the insurance market outside the Exchange, which shall be limited to the information provided in a consumer education document developed by the Exchange and the Commissioner;

(ii) shall refer any inquiries about health benefit plans or other products not offered in the Exchange to:

1. any resources that may be maintained by the Exchange; or

2. carriers and licensed insurance producers; and

(iii) on contact with an individual who acknowledges having existing health insurance coverage obtained through an insurance producer, shall refer the individual back to the insurance producer for information and services unless:

1. the individual is eligible for but has not obtained a federal premium subsidy and cost–sharing assistance available only through the Individual Exchange;

2. the insurance producer is not authorized to sell qualified plans in the Individual Exchange; or

3. the individual would prefer not to seek further assistance from the individual's insurance producer.

(g) (1) The Commissioner may suspend or revoke an Individual Exchange **[**navigator**]** **CONNECTOR** entity authorization after notice and opportunity for a hearing under §§ 2–210 through 2–214 of this article if the Individual Exchange **[**navigator**]** **CONNECTOR** entity:

(i) has willfully violated this article or any regulation adopted under this article;

(ii) has engaged in fraudulent or dishonest practices in conducting activities under the Individual Exchange **[**navigator**]** **CONNECTOR** entity authorization;

(iii) has had any professional license or certification suspended or revoked for a fraudulent or dishonest practice;

(iv) has been convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust; or

(v) has willfully failed to comply with or violated a proper order or subpoena of the Commissioner.

(2) Instead of or in addition to suspending or revoking an Individual Exchange **[**navigator**]** **CONNECTOR** entity authorization, the Commissioner may:

(i) impose a penalty of not less than $100 but not exceeding $500 for each violation of this article; and

(ii) require that restitution be made to any person who has suffered financial injury because of the Individual Exchange **[**navigator**]** **CONNECTOR** entity's violation of this article.

(3) The penalties available to the Commissioner under this subsection shall be in addition to any criminal or civil penalties imposed for fraud or other misconduct under any other State or federal law.

(4) The Commissioner shall notify the Individual Exchange of any decision affecting the authorization of an Individual Exchange **[**navigator**]** **CONNECTOR** entity or any sanction imposed on an Individual **[**navigator**]** **EXCHANGE CONNECTOR** entity under this subsection.

(5) A carrier is not responsible for the activities and conduct of Individual Exchange **[**navigator**]** **CONNECTOR** entities.

(h) An Individual Exchange navigator:

(1) shall hold an Individual Exchange navigator certification issued under subsection (j) of this section;

(2) may provide consumer assistance services that are required to be provided by an Individual Exchange navigator under subsection (d)(1) of this section;

(3) may not be required to hold an insurance producer or adviser license;

(4) shall be employed or engaged by an Individual Exchange ~~navigator~~ **CONNECTOR** entity **OR BY THE EXCHANGE**;

(5) shall receive compensation only through the Individual Exchange or an Individual Exchange ~~navigator~~ **CONNECTOR** entity and not from a carrier or an insurance producer;

(6) may not receive any compensation, directly or indirectly:

(i) from a carrier, an insurance producer, or a third–party administrator in connection with the enrollment of a qualified individual in a qualified health plan; or

(ii) from a managed care organization that participates in the Maryland Medical Assistance Program in connection with the enrollment of an individual in the Maryland Medical Assistance Program or the Maryland Children's Health Program;

(7) with respect to the insurance market outside the Exchange, is subject to the same requirements applicable to Individual Exchange ~~navigator~~ **CONNECTOR** entities as set forth in subsection (f)(8) of this section; and

(8) shall comply with all State and federal laws, regulations, and policies governing the Maryland Medical Assistance Program and the Maryland Children's Health Program.

(i) The Exchange:

(1) shall establish and administer **[**an**]** **A PROCESS FOR** Individual Exchange navigator certification **[**process**]** **AND THE ISSUANCE OF CONSOLIDATED SERVICES CENTER EMPLOYEE INDIVIDUAL EXCHANGE ENROLLMENT PERMITS**;

(2) in consultation with the Commissioner and the Department of Health and Mental Hygiene, shall adopt regulations to implement this subsection; and

(3) may implement the **PROCESS FOR** Individual Exchange navigator certification **[**process**]** **AND THE ISSUANCE OF CONSOLIDATED SERVICES CENTER EMPLOYEE INDIVIDUAL EXCHANGE ENROLLMENT PERMITS** with the assistance of the Commissioner and the Department of Health and Mental Hygiene, in accordance with one or more memoranda of understanding.

(k) (1) The Exchange, with the approval of the Commissioner and in consultation with the Department of Health and Mental Hygiene**, THE HEALTH EDUCATION AND ADVOCACY UNIT OF THE OFFICE OF THE ATTORNEY GENERAL,** and stakeholders, shall develop, implement, and, as appropriate, update a training program for the certification of Individual Exchange navigators **AND THE ISSUANCE OF INDIVIDUAL EXCHANGE ENROLLMENT PERMITS FOR CONSOLIDATED SERVICES CENTER EMPLOYEES**.

(2) The training program shall:

(i) provide Individual Exchange navigators **AND CONSOLIDATED SERVICES CENTER EMPLOYEES** with the full range of skills, knowledge, and expertise necessary to meet the consumer assistance, eligibility, enrollment, renewal, and disenrollment needs of individuals:

1. eligible for the Maryland Medical Assistance Program and the Maryland Children's Health Program; or

2. seeking qualified plans offered in the Individual Exchange;

(ii) enable the navigator program for the Individual Exchange **AND THE EXCHANGE'S CONSOLIDATED SERVICES CENTER** to provide robust protection of consumers and adherence to high quality assurance standards; and

(iii) enable the Individual Exchange to ensure that, with respect to Individual Exchange navigators **AND CONSOLIDATED SERVICES CENTER EMPLOYEES** who offer any form of assistance to individuals regarding the Maryland Medical Assistance Program or the Maryland Children's Health Program, the Individual Exchange navigator certification program **AND CONSOLIDATED SERVICES CENTER** shall comply with all requirements of the Department of Health and Mental Hygiene.

(l) (4) The Commissioner shall notify the Individual Exchange and the Individual Exchange **[**navigator**]** **CONNECTOR** entity for which the Individual Exchange navigator works of any decision affecting the certification of an Individual Exchange navigator or any sanction imposed on an Individual Exchange navigator under this subsection.

(m) (1) The Exchange shall establish and administer an insurance producer authorization process for the Individual Exchange.

(2) Under the process, the Exchange shall:

(i) provide an authorization to sell qualified plans to a licensed insurance producer who meets the requirements in subsection (n) of this section; and

(ii) require renewal of an authorization every 2 years.

(3) (i) Subject to the contested case hearing provisions of Title 10, Subtitle 2 of the State Government Article, the Exchange may suspend, revoke, or refuse to renew an authorization for good cause, which shall include a finding that the insurance producer holding the authorization has committed any act described in subsection **[**(m)(1)**]** **(L)(1)** of this section with respect to the authorization.

(ii) The Individual Exchange shall notify the Commissioner of any decision affecting the status of an insurance producer's authorization.

(4) The Individual Exchange, with the approval of the Commissioner, shall adopt regulations to carry out this subsection.

(o) (1) The Exchange shall develop, implement, and, as appropriate, update a training program for insurance producers who sell qualified plans in the Individual Exchange.

(2) The training program shall:

(i) impart the skills and expertise necessary to perform functions specific to the Individual Exchange, such as making premium assistance eligibility determinations;

(ii) enable the Exchange to provide robust protection of consumers and adherence to high quality assurance standards; [and]

(III) IMPART THE SKILLS AND EXPERTISE NECESSARY TO FACILITATE APPROPRIATE REFERRALS OF INDIVIDUALS AND THEIR DEPENDENTS TO THE MARYLAND MEDICAL ASSISTANCE PROGRAM, THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE APPROPRIATE INDIVIDUAL EXCHANGE CONNECTOR ENTITY, AN INDEPENDENT INSURANCE PRODUCER, OR THE CONSOLIDATED SERVICES CENTER; AND

[(iii)] **(IV)** be approved by the Commissioner.

(P) (1) SUBJECT TO PARAGRAPHS (2) THROUGH (7) OF THIS SUBSECTION, UNTIL JANUARY 1, 2017, A CAPTIVE PRODUCER, WITHOUT BEING SEPARATELY CERTIFIED AS AN INDIVIDUAL EXCHANGE NAVIGATOR, MAY ENROLL, IN A QUALIFIED PLAN OFFERED IN THE INDIVIDUAL EXCHANGE BY THE CARRIER FROM WHICH THE CAPTIVE PRODUCER HAS AN EXCLUSIVE APPOINTMENT:

(I) AN INDIVIDUAL WHO:

1. IS CURRENTLY ENROLLED IN ONE OF THE CARRIER'S NONGROUP PLANS; AND

2. EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DOES NOT HAVE AN INSURANCE PRODUCER OF RECORD IN CONNECTION WITH THE CARRIER'S NONGROUP PLAN; OR

(II) AN INDIVIDUAL WHO:

1. INITIATES CONTACT WITH THE CAPTIVE PRODUCER OR THE CARRIER FOR THE PURPOSE OF REQUESTING ASSISTANCE OR INQUIRING ABOUT THE CARRIER'S PLANS; AND

2. EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DOES NOT ACKNOWLEDGE HAVING AN INSURANCE PRODUCER IN CONNECTION WITH ANY EXISTING INSURANCE COVERAGE.

(2) (I) IF AN INDIVIDUAL UNDER PARAGRAPH (1) OF THIS SUBSECTION HAS AN INSURANCE PRODUCER, A CAPTIVE PRODUCER SHALL

REFER THE INDIVIDUAL BACK TO THE INSURANCE PRODUCER, TOGETHER WITH ANY AVAILABLE CONTACT INFORMATION, FOR INFORMATION AND SERVICES, UNLESS:

1. THE INDIVIDUAL IS ELIGIBLE FOR, BUT HAS NOT OBTAINED A FEDERAL PREMIUM SUBSIDY AND COST–SHARING ASSISTANCE, AND THE INSURANCE PRODUCER IS NOT AUTHORIZED TO SELL QUALIFIED PLANS IN THE INDIVIDUAL EXCHANGE; OR

2. THE INDIVIDUAL WOULD PREFER NOT TO SEEK FURTHER ASSISTANCE FROM THE INDIVIDUAL'S INSURANCE PRODUCER.

(II) IF A CAPTIVE PRODUCER IS NOT AWARE OF AN INSURANCE PRODUCER OF RECORD, THE CAPTIVE PRODUCER SHALL DISCLOSE TO AN INDIVIDUAL UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THERE MAY BE AN INSURANCE PRODUCER OF RECORD IN CONNECTION WITH AN EXISTING POLICY.

(3) (I) A CARRIER AND ITS CAPTIVE PRODUCERS, IN OFFERING INFORMATION AND ASSISTANCE TO THE CARRIER'S CURRENT ENROLLEES REGARDING QUALIFIED PLANS OFFERED IN THE INDIVIDUAL EXCHANGE:

1. SHALL COMPLY WITH FAIR MARKETING STANDARDS DEVELOPED JOINTLY BY THE EXCHANGE AND THE COMMISSIONER;

2. MAY NOT EMPLOY MARKETING PRACTICES OR OFFER INFORMATION AND ASSISTANCE ONLY TO CERTAIN ENROLLEES IN A MANNER THAT WILL HAVE THE EFFECT OF ENROLLING A DISPROPORTIONATE NUMBER OF THE CARRIER'S ENROLLEES WITH SIGNIFICANT HEALTH NEEDS IN QUALIFIED PLANS OFFERED IN THE INDIVIDUAL EXCHANGE; AND

3. SHALL ACT IN THE BEST INTEREST OF THE INDIVIDUAL TO WHOM THE CARRIER AND ITS CAPTIVE PRODUCERS PROVIDE ASSISTANCE.

(II) A CARRIER SHALL PROVIDE TO THE EXCHANGE, AND UPDATE AS NEEDED, A LIST OF ITS CURRENT CAPTIVE PRODUCERS.

(4) BEFORE PROVIDING AN INDIVIDUAL UNDER PARAGRAPH (1) OF THIS SUBSECTION ANY INFORMATION OR ASSISTANCE WITH RESPECT TO QUALIFIED PLANS OFFERED IN THE INDIVIDUAL EXCHANGE, A CAPTIVE PRODUCER IN A MANNER PRESCRIBED UNDER FAIR MARKETING STANDARDS ESTABLISHED BY THE COMMISSIONER AND THE EXCHANGE, SHALL:

(I) DISCLOSE TO THE INDIVIDUAL THAT:

1. THE CAPTIVE PRODUCER IS EMPLOYED BY THE CARRIER AND ABLE TO PROVIDE INFORMATION ABOUT AND SELL ONLY QUALIFIED PLANS OFFERED BY THE CARRIER; AND

2. THE INDIVIDUAL EXCHANGE OFFERS OTHER QUALIFIED PLANS, SOLD BY OTHER CARRIERS, THAT MAY MEET THE INDIVIDUAL'S NEEDS;

(II) ON THE INDIVIDUAL'S REQUEST:

1. REFER THE INDIVIDUAL FOR FURTHER ASSISTANCE TO AN INDEPENDENT INSURANCE PRODUCER, THE APPROPRIATE INDIVIDUAL EXCHANGE CONNECTOR ENTITY, OR THE CONSOLIDATED SERVICES CENTER; AND

2. PROVIDE, THROUGH MAIL OR ELECTRONIC COMMUNICATION, WRITTEN INFORMATION ABOUT THE INDIVIDUAL EXCHANGE, THE CONNECTOR PROGRAM, AND THE CONSOLIDATED SERVICES CENTER; AND

(III) DOCUMENT THAT THE CAPTIVE PRODUCER HAS PROVIDED THE REQUIRED DISCLOSURES AND THE INDIVIDUAL HAS ACKNOWLEDGED THAT THE INDIVIDUAL:

1. UNDERSTANDS THE DISCLOSURES;

2. DOES NOT WANT TO BE REFERRED TO AN INDEPENDENT INSURANCE PRODUCER, AN INDIVIDUAL EXCHANGE CONNECTOR ENTITY, OR THE CONSOLIDATED SERVICES CENTER; AND

3. WANTS TO RECEIVE INFORMATION AND ASSISTANCE FROM THE CAPTIVE PRODUCER.

(5) A RECORD OF THE DOCUMENTATION REQUIRED UNDER PARAGRAPH (4)(III) OF THIS SUBSECTION SHALL BE:

(I) RETAINED BY A CAPTIVE PRODUCER FOR AT LEAST 3 YEARS;

(II) SUBJECT TO THE COMMISSIONER'S REVIEW IN A MARKET CONDUCT EXAMINATION; AND

(III) PROVIDED TO THE EXCHANGE ON A QUARTERLY BASIS.

(6) WITH RESPECT TO ANY HEALTH BENEFIT PLANS OR OTHER PRODUCTS OFFERED IN THE INDIVIDUAL EXCHANGE OR THE INSURANCE MARKET OUTSIDE THE INDIVIDUAL EXCHANGE BY CARRIERS OTHER THAN THE CARRIER WITH WHICH THE CAPTIVE PRODUCER HAS AN EXCLUSIVE APPOINTMENT, A CAPTIVE PRODUCER:

(I) MAY NOT PROVIDE ANY INFORMATION OR SERVICES RELATED TO HEALTH BENEFIT PLANS OR OTHER PRODUCTS NOT OFFERED BY THE CAPTIVE PRODUCER'S CARRIER; AND

(II) SHALL REFER ANY INQUIRIES ABOUT HEALTH BENEFIT PLANS OR OTHER PRODUCTS NOT OFFERED BY THE CAPTIVE PRODUCER'S CARRIER TO:

1. ANY RESOURCES THAT MAY BE MAINTAINED BY THE EXCHANGE; OR

2. A LICENSED INDEPENDENT INSURANCE PRODUCER.

(7) IF A CARRIER OR A CAPTIVE PRODUCER FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION, THE EXCHANGE MAY:

(I) SUSPEND, REVOKE, OR REFUSE TO RENEW THE CAPTIVE PRODUCER'S AUTHORIZATION UNDER SUBSECTION (M)(3) OF THIS SECTION; AND

(II) IMPOSE SANCTIONS AGAINST THE CARRIER UNDER § 31–115(K) OF THIS TITLE.

[(p)**] (Q)** Nothing in this section shall prohibit a community–based organization or a unit of State or local government from providing the consumer assistance services described in subsection (c) of this section that are not required to be provided by an Individual Exchange navigator, if the entity providing the services and its employees do not:

(1) receive any compensation, directly or indirectly, from a carrier, an insurance producer, or a third–party administrator in connection with the enrollment of a qualified individual in a qualified health plan;

(2) receive any compensation, directly or indirectly, from a managed care organization that participates in the Maryland Medical Assistance Program or the Maryland Children's Health Program; and

(3) identify themselves to the public as an Individual Exchange [navigator] **CONNECTOR** entities or Individual Exchange navigators.

(R) (1) TO THE EXTENT AND IN THE MANNER PERMITTED OR REQUIRED BY FEDERAL LAW OR REGULATION GOVERNING APPLICATION COUNSELORS AND OTHER EXCHANGE CONSUMER ASSISTANCE PERSONNEL, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AND DEPENDING ON ITS NEEDS AND RESOURCES, THE EXCHANGE MAY:

(I) DESIGNATE AS AN APPLICATION COUNSELOR SPONSORING ENTITY UNDER THIS SUBSECTION A COMMUNITY–BASED ORGANIZATION, HEALTH CARE PROVIDER, UNIT OF STATE OR LOCAL GOVERNMENT, OR OTHER ENTITY; AND

(II) CERTIFY AS AN APPLICATION COUNSELOR ANY AGENT, EMPLOYEE, OR VOLUNTEER OF AN APPLICATION COUNSELOR SPONSORING ENTITY WHO MEETS THE REQUIREMENTS FOR INDIVIDUAL EXCHANGE NAVIGATOR CERTIFICATION UNDER THIS SECTION.

(2) AN APPLICATION COUNSELOR SPONSORING ENTITY AND AN APPLICATION COUNSELOR AUTHORIZED TO PROVIDE SERVICES UNDER THIS SUBSECTION:

(I) MAY NOT BE COMPENSATED BY THE EXCHANGE;

(II) MAY NOT IMPOSE A FEE ON INDIVIDUALS TO WHOM THEY ARE AUTHORIZED TO PROVIDE SERVICES UNDER THIS SECTION FOR THE SERVICES;

(III) SHALL DISCLOSE TO THE EXCHANGE AND TO INDIVIDUALS TO WHOM THEY PROVIDE SERVICES ANY RELATIONSHIPS THEY HAVE WITH:

1. A CARRIER, AN INSURANCE PRODUCER, OR A THIRD–PARTY ADMINISTRATOR; OR

2. A MANAGED CARE ORGANIZATION THAT PARTICIPATES IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND

(IV) SHALL ACT IN THE BEST INTEREST OF THE INDIVIDUALS FOR WHOM THEY ARE AUTHORIZED TO PROVIDE SERVICES; AND

(V) MAY NOT BE COMPENSATED BY A CARRIER, INSURANCE PRODUCER, OR THIRD–PARTY ADMINISTRATOR FOR THEIR ENROLLMENT SERVICES.

(3) AN APPLICATION COUNSELOR IS SUBJECT TO ALL REQUIREMENTS, RESTRICTIONS, CONFLICT OF INTEREST RULES, AND OVERSIGHT APPLICABLE TO:

(I) INDIVIDUAL EXCHANGE CONNECTOR ENTITIES AND INDIVIDUAL EXCHANGE NAVIGATORS UNDER THIS SUBSECTION AND ANY OTHER RELEVANT STATE OR FEDERAL LAWS; AND

(II) APPLICATION COUNSELORS UNDER FEDERAL LAW OR REGULATION.

(4) THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, MAY:

(I) ESTABLISH REQUIREMENTS FOR A SPONSORING ENTITY; AND

(II) ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

31–113.1.

(A) IN ACCORDANCE WITH THE REQUIREMENT TO OPERATE A TOLL–FREE HOTLINE UNDER § 1311(D)(4) OF THE AFFORDABLE CARE ACT AND § 31–108(B)(5) OF THIS TITLE, THE EXCHANGE MAY ESTABLISH A CONSOLIDATED SERVICES CENTER.

(B) (1) THE CSC MAY EMPLOY INDIVIDUALS TO ASSIST THE SHOP EXCHANGE.

(2) A CSC EMPLOYEE AUTHORIZED TO ASSIST THE SHOP EXCHANGE:

(I) MAY PROVIDE THE SERVICES SET FORTH IN § 31–112(C)(1) OF THIS TITLE, BUT MAY NOT INITIATE CONTACT WITH A SMALL EMPLOYER FOR THE PURPOSE OF SOLICITING THE SMALL EMPLOYER TO PROVIDE QUALIFIED PLANS OFFERED BY THE SHOP EXCHANGE TO ITS EMPLOYEES;

(II) SHALL HOLD A SHOP EXCHANGE ENROLLMENT PERMIT;

(III) IS NOT A SHOP EXCHANGE NAVIGATOR AND MAY NOT HOLD A SHOP EXCHANGE NAVIGATOR LICENSE;

(IV) MAY NOT BE REQUIRED TO HOLD AN INSURANCE PRODUCER LICENSE; AND

(V) SHALL COMPLY WITH THE LIMITATIONS SET FORTH IN § 31–112(C)(3) OF THIS TITLE.

(3) (I) THE COMMISSIONER SHALL ISSUE A SHOP EXCHANGE ENROLLMENT PERMIT TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS PARAGRAPH.

(II) TO QUALIFY FOR A SHOP EXCHANGE ENROLLMENT PERMIT, AN APPLICANT:

1. SHALL BE OF GOOD CHARACTER AND TRUSTWORTHY;

2. SHALL BE AT LEAST 18 YEARS OLD;

3. SHALL PASS THE WRITTEN EXAMINATION GIVEN BY THE COMMISSIONER TO APPLICANTS FOR A SHOP NAVIGATOR LICENSE UNDER § 31–112(D)(2)(III) OF THIS TITLE;

4. SHALL BE ENGAGED BY, AND RECEIVE COMPENSATION ONLY THROUGH, THE CSC;

5. MAY NOT RECEIVE COMPENSATION FROM OR OTHERWISE BE AFFILIATED WITH A CARRIER, AN INSURANCE PRODUCER, A THIRD–PARTY ADMINISTRATOR, OR ANY OTHER PERSON CONNECTED TO THE INSURANCE INDUSTRY; AND

6. SHALL COMPLETE, AND COMPLY WITH ANY ONGOING REQUIREMENTS OF, THE TRAINING PROGRAM ESTABLISHED UNDER § 31–112(H) OF THIS TITLE.

(4) THE COMMISSIONER'S DUTIES AND AUTHORITY UNDER § 31–112(D)(3) AND (E) OF THIS TITLE SHALL APPLY TO CSC EMPLOYEES WHO HOLD A SHOP EXCHANGE ENROLLMENT PERMIT ISSUED UNDER THIS SUBSECTION.

(C) (1) THE CSC MAY EMPLOY INDIVIDUALS TO ASSIST THE INDIVIDUAL EXCHANGE.

(2) A CSC EMPLOYEE AUTHORIZED TO ASSIST THE INDIVIDUAL EXCHANGE:

(I) MAY PROVIDE THE SERVICES SET FORTH IN § 31–113(D) OF THIS TITLE, BUT MAY NOT INITIATE CONTACT WITH AN INDIVIDUAL FOR THE PURPOSE OF SOLICITING THE INDIVIDUAL TO ENROLL IN A QUALIFIED PLAN OFFERED BY THE INDIVIDUAL EXCHANGE;

(II) SHALL HOLD AN INDIVIDUAL EXCHANGE ENROLLMENT PERMIT;

(III) IS NOT AN INDIVIDUAL EXCHANGE NAVIGATOR AND MAY NOT HOLD AN INDIVIDUAL EXCHANGE NAVIGATOR CERTIFICATION;

(IV) MAY NOT BE REQUIRED TO HOLD AN INSURANCE PRODUCER OR ADVISER LICENSE;

(V) WITH RESPECT TO THE INSURANCE MARKET OUTSIDE THE EXCHANGE, SHALL COMPLY WITH § 31–113(F)(8) OF THIS TITLE; ~~AND~~

(VI) SHALL INQUIRE WHETHER AN INDIVIDUAL HAS HEALTH INSURANCE OBTAINED THROUGH AN INSURANCE PRODUCER AND, IF SO, SHALL REFER THE INDIVIDUAL TO THE INSURANCE PRODUCER FOR INFORMATION AND SERVICES UNLESS:

1. THE INDIVIDUAL IS ELIGIBLE FOR, BUT HAS NOT OBTAINED A FEDERAL PREMIUM SUBSIDY AND COST–SHARING ASSISTANCE, AND THE INSURANCE PRODUCER IS NOT AUTHORIZED TO SELL QUALIFIED PLANS IN THE INDIVIDUAL EXCHANGE; OR

2. THE INDIVIDUAL WOULD PREFER NOT TO SEEK FURTHER ASSISTANCE FROM THE INDIVIDUAL'S INSURANCE PRODUCER; AND

(VII) SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS, REGULATIONS, AND POLICIES GOVERNING THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM.

(3) (I) THE EXCHANGE SHALL ISSUE AN INDIVIDUAL EXCHANGE ENROLLMENT PERMIT TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS PARAGRAPH.

(II) TO QUALIFY FOR AN INDIVIDUAL EXCHANGE ENROLLMENT PERMIT, AN APPLICANT:

1. SHALL BE OF GOOD CHARACTER AND TRUSTWORTHY;

2. SHALL BE AT LEAST 18 YEARS OLD;

3. SHALL BE ENGAGED BY, AND RECEIVE COMPENSATION ONLY THROUGH, THE CSC;

4. MAY NOT RECEIVE ANY COMPENSATION, DIRECTLY OR INDIRECTLY, FROM:

A. A CARRIER, AN INSURANCE PRODUCER, OR A THIRD–PARTY ADMINISTRATOR IN CONNECTION WITH THE ENROLLMENT OF A QUALIFIED INDIVIDUAL IN A QUALIFIED HEALTH PLAN; OR

B. A MANAGED CARE ORGANIZATION THAT PARTICIPATES IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM IN CONNECTION WITH THE ENROLLMENT OF AN INDIVIDUAL IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND

5. SHALL COMPLETE, AND COMPLY WITH ANY ONGOING REQUIREMENTS OF, THE TRAINING PROGRAM ESTABLISHED UNDER § 31–113(K) OF THIS TITLE.

(4) THE COMMISSIONER'S DUTIES AND AUTHORITY UNDER § 31–113(L) OF THIS TITLE SHALL APPLY TO CSC EMPLOYEES WHO HOLD AN INDIVIDUAL EXCHANGE ENROLLMENT PERMIT ISSUED UNDER THIS SUBSECTION.

(D) THE EXCHANGE, THE CSC, AND CSC EMPLOYEES SHALL ASSIST THE HEALTH EDUCATION AND ADVOCACY UNIT OF THE OFFICE OF THE ATTORNEY GENERAL IN CARRYING OUT ITS DUTIES TO ASSIST CONSUMERS UNDER TITLE 13, SUBTITLE 4A OF THE COMMERCIAL LAW ARTICLE AND TITLE 15, SUBTITLES 10A AND 10D OF THIS ARTICLE.

31–114.

(a) Nothing in this title requires the Maryland Medical Assistance Program or the Maryland Children's Health Program to provide any specific financial support

to the Individual Exchange for the services provided by an Individual Exchange navigator or an Individual Exchange **[**navigator**]** **CONNECTOR** entity.

31–115.

(b) To be certified as a qualified health plan, a health benefit plan shall:

(1) except as provided in subsection (c) of this section, provide the essential health benefits required under § 1302(a) of the Affordable Care Act and § 31–116 of this title;

(2) obtain prior approval of premium rates and contract language from the Commissioner;

(3) except as provided in subsection ~~(d)~~ **(E)** of this section, provide at least a bronze level of coverage, as defined in the Affordable Care Act and determined by the Exchange under § 31–108(b)(8)(ii) of this title;

(4) (i) ensure that its cost–sharing requirements do not exceed the limits established under § 1302(c)(1) of the Affordable Care Act; and

(ii) if the health benefit plan is offered through the SHOP Exchange, ensure that the health benefit plan's deductible does not exceed the limits established under § 1302(c)(2) of the Affordable Care Act;

(5) be offered by a carrier that:

(i) is licensed and in good standing to offer health insurance coverage in the State;

(II) OFFERS IN EACH EXCHANGE, THE INDIVIDUAL AND THE SHOP, IN WHICH THE CARRIER PARTICIPATES, AT LEAST ONE QUALIFIED HEALTH PLAN:

1. AT A BRONZE LEVEL OF COVERAGE;

2. AT A SILVER LEVEL OF COVERAGE; AND

3. AT A GOLD LEVEL OF COVERAGE;

~~(ii)~~ **(III)** if the carrier participates in the Individual **[**Exchange's individual market**]** **EXCHANGE AND OFFERS ANY HEALTH BENEFIT PLAN IN THE INDIVIDUAL MARKET OUTSIDE THE EXCHANGE**, offers at least one qualified health plan at the silver level and one at the gold level in the individual market outside the Exchange;

~~(iii)~~ **(IV)** if the carrier participates in the SHOP Exchange **AND OFFERS ANY HEALTH BENEFIT PLAN IN THE SMALL GROUP MARKET OUTSIDE THE SHOP EXCHANGE**, offers at least one qualified health plan at the silver level and one at the gold level in the small group market outside the SHOP Exchange;

~~(iv)~~ **(V)** charges the same premium rate for each qualified health plan regardless of whether the qualified health plan is offered through the Exchange, through an insurance producer outside the Exchange, or directly from a carrier;

~~(v)~~ **(VI)** does not charge any cancellation fees or penalties in violation of § 31–108(c) of this title; and

~~(vi)~~ **(VII)** complies with the regulations adopted by the Secretary under § 1311(d) of the Affordable Care Act and by the Exchange under § 31–106(c)(1)(iv) of this title;

(6) meet the requirements for certification established under the regulations adopted by:

(i) the Secretary under § 1311(c)(1) of the Affordable Care Act, including minimum standards for marketing practices, network adequacy, essential community providers in underserved areas, accreditation, quality improvement, uniform enrollment forms and descriptions of coverage, and information on quality measures for health plan performance; and

(ii) the Exchange under § 31–106(c)(1)(iv) of this title;

(7) be in the interest of qualified individuals and qualified employers, as determined by the Exchange;

(8) provide any other benefits as may be required by the Commissioner under any applicable State law or regulation; and

(9) meet any other requirements established by the Exchange under this title, including:

(i) transition of care language in contracts as determined appropriate by the Exchange to ensure care continuity and reduce duplication and costs of care;

(ii) criteria that encourage and support qualified plans in facilitating cross–border enrollment; and

(iii) demonstrating compliance with the federal Mental Health Parity and Addiction Equity Act of 2008.

(d) [(1) A qualified health plan is not required to provide essential benefits that duplicate the minimum benefits of qualified vision plans, as provided in subsection (i) of this section, if:

(i) the Exchange has determined that at least one qualified vision plan is available to supplement the qualified health plan's coverage; and

(ii) at the time the carrier offers the qualified health plan, the carrier discloses in a form approved by the Exchange that:

1. the plan does not provide the full range of essential pediatric vision benefits; and

2. qualified vision plans providing these and other vision benefits also not provided by the qualified health plan are offered through the Exchange.

(2)] The Exchange may determine whether a carrier may elect to [include] **OFFER COVERAGE FOR** nonessential vision benefits in [a qualified health plan] **EITHER THE SHOP EXCHANGE OR INDIVIDUAL EXCHANGE**.

(e) A qualified health plan is not required to provide at least a bronze level of coverage under subsection (b)(3) of this section if the qualified health plan:

(1) meets the requirements and is certified as a qualified catastrophic plan as provided under the Affordable Care Act; and

(2) will be offered only to individuals eligible for catastrophic coverage.

(h) (1) Except as provided in paragraphs (2) through (5) of this subsection, the requirements applicable to qualified health plans under this title also shall apply to qualified dental plans to the extent relevant, whether offered in conjunction with or as an endorsement to qualified health plans or as stand–alone dental plans.

(2) A carrier offering a qualified dental plan shall be licensed to offer dental coverage but need not be licensed to offer other health benefits.

(3) A qualified dental plan shall:

(i) be limited to dental and oral health benefits, without substantial duplication of other benefits typically offered by health benefit plans without dental coverage; and

(ii) include at a minimum:

1. the essential pediatric dental benefits required by the Secretary under § 1302(b)(1)(j) of the Affordable Care Act; and

2. other dental benefits required by the Secretary or the Exchange.

(4) (i) The Exchange may determine:

1. the manner in which carriers must disclose the price of oral and dental benefits and, to the extent relevant, medical benefits, when offered:

A. to the extent permitted by the Exchange, in a qualified health plan;

B. in conjunction with or as an endorsement to a qualified health plan; or

C. as a stand–alone plan; and

2. when a carrier offers a qualified dental plan in conjunction with a qualified health plan, whether the carrier also must make the qualified health plan, the qualified dental plan, or both qualified plans available on a stand–alone basis.

(ii) In determining the manner in which carriers must offer and disclose the price of medical, oral, and dental benefits under this paragraph, the Exchange shall balance the objectives of transparency and affordability for consumers.

(5) The Exchange may:

(i) exempt qualified dental plans from a requirement applicable to qualified health plans under this title to the extent the Exchange determines the requirement is not relevant to qualified dental plans; and

(ii) establish additional requirements for qualified dental plans in conjunction with its establishment of additional requirements for qualified health plans under subsection (b)(9) of this section.

(6) THE EXCHANGE MAY REQUIRE CHILDREN ENROLLING IN A QUALIFIED HEALTH PLAN TO HAVE THE ESSENTIAL PEDIATRIC DENTAL BENEFITS REQUIRED BY THE SECRETARY UNDER § 1302(B)(1)(J) OF THE AFFORDABLE CARE ACT, WHETHER OFFERED:

(I) IN THE QUALIFIED HEALTH PLAN;

(II) IN CONJUNCTION WITH OR AS AN ENDORSEMENT TO THE QUALIFIED HEALTH PLAN; OR

(III) AS A STAND–ALONE DENTAL PLAN.

(i) (3) A qualified vision plan shall:

(i) be limited to vision and eye health benefits, without substantial duplication of other benefits typically offered by health benefit plans without vision coverage; and

(ii) include at a minimum:

1. the essential pediatric vision benefits required by the Secretary under § 1302(b)(1)(j) of the Affordable Care Act; **[**and**] OR**

2. other vision benefits required by the Secretary or the Exchange.

(K) (1) SUBJECT TO THE CONTESTED CASE HEARING PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, AND SUBSECTION (F) OF THIS SECTION, THE EXCHANGE MAY DENY CERTIFICATION TO A HEALTH BENEFIT PLAN, A DENTAL PLAN, OR A VISION PLAN, OR SUSPEND OR REVOKE THE CERTIFICATION OF A QUALIFIED PLAN, BASED ON A FINDING THAT THE HEALTH BENEFIT PLAN, DENTAL PLAN, VISION PLAN, OR QUALIFIED PLAN DOES NOT SATISFY REQUIREMENTS OR ~~MEET~~ HAS OTHERWISE VIOLATED STANDARDS FOR CERTIFICATION THAT ARE:

(I) ESTABLISHED UNDER THE REGULATIONS AND INTERIM POLICIES ADOPTED BY THE EXCHANGE TO CARRY OUT THIS TITLE; AND

(II) NOT OTHERWISE UNDER THE REGULATORY AND ENFORCEMENT AUTHORITY OF THE COMMISSIONER.

(2) CERTIFICATION REQUIREMENTS ~~MAY~~ SHALL INCLUDE PROVIDING DATA AND MEETING STANDARDS RELATED TO:

(I) ENROLLMENT;

(II) ESSENTIAL COMMUNITY PROVIDERS;

(III) COMPLAINTS AND GRIEVANCES INVOLVING THE EXCHANGE;

(IV) NETWORK ADEQUACY;

(V) QUALITY;

(VI) TRANSPARENCY;

(VII) RACE, ETHNICITY, LANGUAGE, INTERPRETER NEED, AND CULTURAL COMPETENCY (RELICC);

(VIII) PLAN SERVICE AREA, INCLUDING DEMOGRAPHICS;

(IX) ACCREDITATION; AND

(X) COMPLYING WITH FAIR MARKETING STANDARDS DEVELOPED JOINTLY BY THE EXCHANGE AND THE COMMISSIONER.

(3) INSTEAD OF OR IN ADDITION TO DENYING, SUSPENDING, OR REVOKING CERTIFICATION, THE EXCHANGE MAY IMPOSE OTHER REMEDIES OR TAKE OTHER ACTIONS, INCLUDING:

(I) TAKING CORRECTIVE ACTION TO REMEDY A VIOLATION OF OR FAILURE TO COMPLY WITH STANDARDS FOR CERTIFICATION; AND

(II) IMPOSING A PENALTY NOT EXCEEDING ~~$100~~ $5,000 FOR EACH VIOLATION OF OR FAILURE TO COMPLY WITH STANDARDS FOR CERTIFICATION.

(4) IN DETERMINING THE AMOUNT OF A PENALTY UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION, THE EXCHANGE SHALL CONSIDER:

(I) THE TYPE, SEVERITY, AND DURATION OF THE VIOLATION;

(II) WHETHER THE PLAN OR CARRIER KNEW OR SHOULD HAVE KNOWN OF THE VIOLATION;

(III) THE EXTENT TO WHICH THE PLAN OR CARRIER HAVE A HISTORY OF VIOLATIONS; AND

(IV) WHETHER THE PLAN OR CARRIER CORRECTED THE VIOLATION AS SOON AS THEY KNEW OR SHOULD HAVE KNOWN OF THE VIOLATION.

(5) THE PENALTIES AVAILABLE TO THE EXCHANGE UNDER THIS SUBSECTION SHALL BE IN ADDITION TO ANY CRIMINAL OR CIVIL PENALTIES

IMPOSED FOR FRAUD OR OTHER VIOLATION UNDER ANY OTHER STATE OR FEDERAL LAW.

(6) (I) A CARRIER OR PLAN, UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE AND THE EXCHANGE'S APPEALS AND GRIEVANCE PROCESS MAY:

1. APPEAL AN ORDER OR DECISION ISSUED BY THE EXCHANGE UNDER THIS SECTION; AND

2. REQUEST A HEARING.

(II) A DEMAND FOR A HEARING STAYS A DECISION OR ORDER OF THE EXCHANGE PENDING THE HEARING, AND A FINAL ORDER OF THE EXCHANGE RESULTING FROM IT, IF THE EXCHANGE RECEIVES THE DEMAND:

1. BEFORE THE EFFECTIVE DATE OF THE ORDER; OR

2. WITHIN 10 DAYS AFTER THE ORDER IS SERVED.

(III) IF A PETITION FOR JUDICIAL REVIEW IS FILED WITH THE APPROPRIATE COURT UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE COURT HAS JURISDICTION OVER THE CASE AND SHALL DETERMINE WHETHER THE FILING OPERATES AS A STAY OF THE ORDER FROM WHICH THE APPEAL IS TAKEN.

31–116.

(a) The essential health benefits required under § 1302(a) of the Affordable Care Act:

(1) shall be the benefits in the State benchmark plan, selected in accordance with this section; and

(2) notwithstanding any other benefits mandated by State law, shall be the benefits required in:

(i) all individual health benefit plans and health benefit plans offered to small employers, except for grandfathered health plans, as defined in the Affordable Care Act, offered outside the Exchange; and

(ii) subject to § 31–115(c) **[**and (d)**]** of this title, all qualified health plans offered in the Exchange.

31–117.

(a) The Exchange, with the approval of the Commissioner, shall implement or oversee the implementation of the state–specific requirements of §§ 1341 and 1343 of the Affordable Care Act relating to transitional reinsurance and risk adjustment.

(b) The Exchange may not assume responsibility for the program corridors for health benefit plans in the Individual Exchange and the SHOP Exchange established under § 1342 of the Affordable Care Act.

(c) (1) In compliance with § 1341 of the Affordable Care Act, the Exchange, in consultation with the Maryland Health Care Commission and with the approval of the Commissioner, shall operate or oversee the operation of a transitional reinsurance program in accordance with regulations adopted by the Secretary for coverage years 2014 through 2016.

(2) As required by the Affordable Care Act and regulations adopted by the Secretary, the transitional reinsurance program shall be designed to protect carriers that offer individual health benefit plans inside and outside the Exchange against excessive health care expenses incurred by high–risk individuals.

(3) (I) THE EXCHANGE, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION AND WITH THE APPROVAL OF THE COMMISSIONER, MAY ESTABLISH A STATE REINSURANCE PROGRAM TO TAKE EFFECT ON OR AFTER JANUARY 1, ~~2015~~ 2014.

(II) THE PURPOSE OF THE STATE REINSURANCE PROGRAM IS TO MITIGATE THE IMPACT OF HIGH–RISK INDIVIDUALS ON RATES IN THE INDIVIDUAL INSURANCE MARKET INSIDE AND OUTSIDE THE EXCHANGE.

(III) WITH THE APPROVAL OF AND IN COLLABORATION WITH THE BOARD OF THE MARYLAND HEALTH INSURANCE PLAN, THE EXCHANGE MAY USE REVENUE RECEIVED FROM THE MARYLAND HEALTH INSURANCE PLAN FUND UNDER § 14–504(D) OF THIS ARTICLE TO FUND THE STATE REINSURANCE PROGRAM.

(d) (1) In compliance with § 1343 of the Affordable Care Act, the Exchange, with the approval of the Commissioner, shall operate or oversee the operation of a risk adjustment program designed to:

(i) reduce the incentive for carriers to manage their risk by seeking to enroll individuals with a lower than average health risk;

(ii) increase the incentive for carriers to enhance the quality and cost–effectiveness of their enrollees' health care services; and

(iii) require appropriate adjustments among all health benefit plans in the individual and small group markets inside and outside the Exchange to compensate for the enrollment of high–risk individuals.

(2) Beginning in 2014, the Exchange, with the approval of the Commissioner, shall strongly consider using the federal model adopted by the Secretary in the operation of the State's risk adjustment program.

31–119.

(a) The Exchange shall be administered in a manner designed to:

(1) prevent discrimination **ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, DISABILITY, AGE, SEX, GENDER IDENTITY, OR SEXUAL ORIENTATION**;

(2) streamline enrollment and other processes to minimize expenses and achieve maximum efficiency;

(3) prevent waste, fraud, and abuse; and

(4) promote financial integrity.

(d) (1) On or before December 1 of each year, the Board shall forward to the Secretary, the Governor, and, in accordance with § 2–1246 of the State Government Article, the General Assembly, a report on the activities, expenditures, and receipts of the Exchange.

(2) The report shall:

(i) be in the standardized format required by the Secretary;

(ii) include data regarding:

1. health plan participation, ratings, coverage, price, quality improvement measures, and benefits;

2. consumer choice, participation, and satisfaction information to the extent the information is available;

3. financial integrity, fee assessments, and status of the Fund; and

4. any other appropriate metrics related to the operation of the Exchange that may be used to evaluate Exchange performance, assure transparency, and facilitate research and analysis;

(iii) **ASSESS AND, TO THE EXTENT FEASIBLE AND PERMITTED BY LAW,** include data to identify disparities related to gender, race, ethnicity, geographic location, language, disability, **GENDER IDENTITY, SEXUAL ORIENTATION,** or other attributes of special populations; and

(iv) include information on its fraud, waste, and abuse detection and prevention program.

(e) **(1)** The Board shall cooperate fully with any investigation into the affairs of the Exchange, including making available for examination the records of the Exchange, conducted by:

[(1)**]** **(I)** the Secretary under the Secretary's authority under the Affordable Care Act; and

[(2)**]** **(II)** the Commissioner under the Commissioner's authority **[**to regulate the sale and purchase of insurance in the State**]** **UNDER THIS ARTICLE**.

(2) THE COMMISSIONER MAY ADOPT REGULATIONS ESTABLISHING THE MINIMUM LENGTH OF TIME FOR WHICH, AND THE MANNER IN WHICH, THE EXCHANGE IS REQUIRED TO MAINTAIN RECORDS OF INSURANCE TRANSACTIONS CONDUCTED BY THE EXCHANGE.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

15–140.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ACUTE CONDITION" MEANS A MEDICAL OR DENTAL CONDITION THAT:

(I) INVOLVES A SUDDEN ONSET OF SYMPTOMS DUE TO AN ILLNESS, AN INJURY, OR ANY OTHER MEDICAL OR DENTAL PROBLEM THAT REQUIRES PROMPT MEDICAL ATTENTION; AND

(II) HAS A LIMITED DURATION.

(3) "CARRIER" MEANS:

(I) AN INSURER AUTHORIZED TO SELL HEALTH INSURANCE;

(II) A NONPROFIT HEALTH SERVICE PLAN;

(III) A HEALTH MAINTENANCE ORGANIZATION;

(IV) A DENTAL PLAN ORGANIZATION; OR

(V) ANY OTHER ENTITY PROVIDING A PLAN OF HEALTH INSURANCE, HEALTH BENEFITS, OR HEALTH SERVICES AUTHORIZED UNDER THIS ARTICLE OR THE AFFORDABLE CARE ACT.

(4) "ENROLLEE" MEANS:

(I) A PERSON ENTITLED TO HEALTH CARE BENEFITS FROM A CARRIER; OR

(II) A PROGRAM RECIPIENT WHO IS ENROLLED IN A MANAGED CARE ORGANIZATION.

(5) (I) "HEALTH BENEFIT PLAN" MEANS A POLICY, A CONTRACT, A CERTIFICATE, OR AN AGREEMENT OFFERED, ISSUED, OR DELIVERED BY A CARRIER TO AN INDIVIDUAL OR A GROUP IN THE STATE TO PROVIDE, DELIVER, ARRANGE FOR, PAY FOR, OR REIMBURSE ANY OF THE COSTS OF HEALTH CARE SERVICES.

(II) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE:

1. COVERAGE ONLY FOR ACCIDENT OR DISABILITY INSURANCE OR ANY COMBINATION OF ACCIDENT AND DISABILITY INSURANCE;

2. COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;

3. LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

4. WORKERS' COMPENSATION OR SIMILAR INSURANCE;

5. AUTOMOBILE MEDICAL PAYMENT INSURANCE;

6. CREDIT–ONLY INSURANCE;

7. COVERAGE FOR ON–SITE MEDICAL CLINICS; OR

8. OTHER SIMILAR INSURANCE COVERAGE, SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, UNDER WHICH BENEFITS FOR HEALTH CARE SERVICES ARE SECONDARY OR INCIDENTAL TO OTHER INSURANCE BENEFITS.

(III) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE THE FOLLOWING BENEFITS IF THEY ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE, OR ARE OTHERWISE NOT AN INTEGRAL PART OF THE PLAN:

1. LIMITED SCOPE ~~DENTAL OR~~ VISION BENEFITS;

2. BENEFITS FOR LONG–TERM CARE, NURSING HOME CARE, HOME HEALTH CARE, COMMUNITY–BASED CARE, OR ANY COMBINATION OF THESE BENEFITS; OR

3. SUCH OTHER SIMILAR LIMITED BENEFITS AS ARE SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

(IV) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE THE FOLLOWING BENEFITS IF THE BENEFITS ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE, THERE IS NO COORDINATION BETWEEN THE PROVISION OF THE BENEFITS AND ANY EXCLUSION OF BENEFITS UNDER ANY GROUP HEALTH PLAN MAINTAINED BY THE SAME PLAN SPONSOR, AND THE BENEFITS ARE PAID WITH RESPECT TO AN EVENT WITHOUT REGARD TO WHETHER THE BENEFITS ARE PROVIDED UNDER ANY GROUP HEALTH PLAN MAINTAINED BY THE SAME PLAN SPONSOR:

1. COVERAGE ONLY FOR A SPECIFIED DISEASE OR ILLNESS; OR

2. HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY INSURANCE.

(V) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE THE FOLLOWING IF OFFERED AS A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE:

1. MEDICARE SUPPLEMENTAL INSURANCE (AS DEFINED UNDER § 1882(G)(1) OF THE SOCIAL SECURITY ACT);

2. COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10, UNITED STATES CODE (CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)); OR

3. SIMILAR SUPPLEMENTAL COVERAGE PROVIDED TO COVERAGE UNDER A GROUP HEALTH PLAN.

(6) (I) "HEALTH CARE PROVIDER" MEANS:

~~(II)~~ 1. A HEALTH CARE PRACTITIONER OR GROUP OF HEALTH CARE PRACTITIONERS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO ~~DELIVER~~ PROVIDE, IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION, HEALTH CARE SERVICES COVERED IN A HEALTH BENEFIT PLAN, THE MARYLAND MEDICAL ASSISTANCE PROGRAM, OR THE MARYLAND CHILDREN'S HEALTH PROGRAM; OR

~~(III)~~ 2. A FACILITY WHERE HEALTH CARE IS PROVIDED TO PATIENTS OR RECIPIENTS~~,~~ INCLUDING:

A. A HOSPITAL, AS DEFINED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE;

B. A RELATED INSTITUTION AS DEFINED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE;

C. A FREESTANDING AMBULATORY CARE FACILITY AS DEFINED IN § 19–3B–01 OF THE HEALTH – GENERAL ARTICLE;

D. A FACILITY THAT IS ORGANIZED PRIMARILY TO HELP IN THE REHABILITATION OF PERSONS WITH DISABILITIES;

E. A HOME HEALTH AGENCY AS DEFINED IN § 19–901 OF THE HEALTH – GENERAL ARTICLE;

F. A HOSPICE AS DEFINED IN § 19–901 OF THE HEALTH – GENERAL ARTICLE;

G. A FACILITY THAT PROVIDES RADIOLOGICAL OR OTHER DIAGNOSTIC IMAGERY SERVICES;

H. A MEDICAL LABORATORY AS DEFINED IN § 17–201 OF THE HEALTH – GENERAL ARTICLE;

I. AN ALCOHOL ABUSE AND DRUG ABUSE TREATMENT PROGRAM AS DEFINED IN § 8–403 OF THE HEALTH – GENERAL ARTICLE; AND

J. A FEDERALLY QUALIFIED HEALTH CENTER.

(II) "HEALTH CARE PROVIDER" INCLUDES THE AGENTS, EMPLOYEES, OFFICERS, AND DIRECTORS OF A HEALTH CARE PROVIDER DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(7) "MANAGED CARE ORGANIZATION" MEANS:

(I) A CERTIFIED HEALTH MAINTENANCE ORGANIZATION THAT IS AUTHORIZED TO RECEIVE MEDICAL ASSISTANCE PREPAID CAPITATION PAYMENTS;

(II) A CORPORATION THAT:

1. IS A MANAGED CARE SYSTEM THAT IS AUTHORIZED TO RECEIVE MEDICAL ASSISTANCE PREPAID CAPITATION PAYMENTS;

2. ENROLLS ONLY PROGRAM RECIPIENTS OR INDIVIDUALS OR FAMILIES SERVED UNDER THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND

3. IS SUBJECT TO THE REQUIREMENTS OF § 15–102.4 OF THE HEALTH – GENERAL ARTICLE; OR

(III) A PREPAID DENTAL PLAN THAT RECEIVES FEES TO MANAGE DENTAL SERVICES.

(8) "NONPARTICIPATING PROVIDER" MEANS A HEALTH CARE PROVIDER WHO IS NOT ON THE PROVIDER PANEL OF A CARRIER OR MANAGED CARE ORGANIZATION.

(9) "PARTICIPATING PROVIDER" MEANS A HEALTH CARE PROVIDER WHO IS ON THE PROVIDER PANEL OF A CARRIER OR MANAGED CARE ORGANIZATION.

(10) "PRIOR AUTHORIZATION" MEANS A UTILIZATION MANAGEMENT TECHNIQUE THAT:

(I) IS USED BY CARRIERS AND MANAGED CARE ORGANIZATIONS;

(II) REQUIRES PRIOR APPROVAL FOR A PROCEDURE, TREATMENT, MEDICATION, OR SERVICE BEFORE AN ENROLLEE IS ELIGIBLE FOR FULL PAYMENT OF THE BENEFIT; AND

(III) IS USED TO DETERMINE WHETHER THE PROCEDURE, TREATMENT, MEDICATION, OR SERVICE IS MEDICALLY NECESSARY.

(11) "PROGRAM RECIPIENT" MEANS AN INDIVIDUAL WHO RECEIVES BENEFITS UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

(12) (I) "PROVIDER PANEL" MEANS THE HEALTH CARE PROVIDERS THAT CONTRACT EITHER DIRECTLY OR THROUGH A SUBCONTRACTING ENTITY WITH A CARRIER OR MANAGED CARE ORGANIZATION TO PROVIDE HEALTH CARE SERVICES TO THE ENROLLEES OF THE CARRIER OR MANAGED CARE ORGANIZATION.

(II) "PROVIDER PANEL" DOES NOT INCLUDE AN ARRANGEMENT IN WHICH ANY HEALTH CARE PROVIDER MAY PARTICIPATE SOLELY BY CONTRACTING WITH THE CARRIER OR MANAGED CARE ORGANIZATION TO PROVIDE HEALTH CARE SERVICES AT A DISCOUNTED FEE–FOR–SERVICE RATE.

(13) "RECEIVING CARRIER OR MANAGED CARE ORGANIZATION" MEANS:

(I) THE CARRIER THAT ISSUES THE NEW HEALTH BENEFIT PLAN WHEN AN ENROLLEE TRANSITIONS FROM ANOTHER CARRIER OR A MANAGED CARE ORGANIZATION; OR

(II) THE MANAGED CARE ORGANIZATION THAT ACCEPTS THE ENROLLEE WHEN THE ENROLLEE TRANSITIONS FROM ANOTHER MANAGED CARE ORGANIZATION OR A CARRIER.

(14) "RELINQUISHING CARRIER OR MANAGED CARE ORGANIZATION" MEANS:

(I) THE CARRIER THAT ISSUED THE PRIOR HEALTH BENEFIT PLAN WHEN AN ENROLLEE TRANSITIONS TO A NEW CARRIER OR A MANAGED CARE ORGANIZATION; OR

(II) THE MANAGED CARE ORGANIZATION IN WHICH AN ENROLLEE HAD BEEN ENROLLED PRIOR TO THE ENROLLEE'S TRANSITION TO A NEW MANAGED CARE ORGANIZATION OR A CARRIER.

(15) "SERIOUS CHRONIC CONDITION" MEANS A MEDICAL OR DENTAL CONDITION DUE TO A DISEASE, AN ILLNESS, OR ANY OTHER MEDICAL OR DENTAL PROBLEM THAT:

(I) ~~INCLUDES PERIODS DURING WHICH AN INDIVIDUAL IS UNABLE TO WORK, ATTEND SCHOOL, OR PERFORM OTHER REGULAR DAILY ACTIVITIES~~ IS SERIOUS IN NATURE;

(II) PERSISTS WITHOUT FULL CURE OR WORSENS OVER AN EXTENDED PERIOD OF TIME; AND

(III) ~~REQUIRES ONGOING TREATMENT BY, OR UNDER THE SUPERVISION OF,~~ IS ACTIVELY MANAGED OR SUPERVISED BY A HEALTH CARE PROVIDER TO MAINTAIN REMISSION OR PREVENT DETERIORATION.

(16) "THIRD–PARTY ADMINISTRATOR" MEANS AN ORGANIZATION UNDER CONTRACT WITH THE MARYLAND MEDICAL ASSISTANCE PROGRAM TO ADMINISTER CERTAIN BENEFITS AND SERVICES PROVIDED BY THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

(B) (1) THE PURPOSE OF THIS SECTION IS TO ADVANCE THE STATE'S PROGRESS IN:

~~(1)~~ (I) PROTECTING MARYLANDERS FROM HARMFUL DISRUPTIONS IN HEALTH CARE SERVICES; AND

~~(2)~~ (II) PROMOTING REASONABLE CONTINUITY OF HEALTH CARE FOR MARYLANDERS WHEN TRANSITIONING:

~~(I)~~ 1. FROM ONE CARRIER TO ANOTHER CARRIER; AND

~~(II)~~ 2. BETWEEN A CARRIER AND THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM.

(2) THIS SECTION:

(I) WITH RESPECT TO ANY BENEFIT OR SERVICE THAT IS PROVIDED THROUGH THE MARYLAND MEDICAL ASSISTANCE FEE–FOR–SERVICE PROGRAM:

1. SHALL NOT APPLY WHEN THE ENROLLEE IS TRANSITIONING FROM A CARRIER TO THE MARYLAND MEDICAL ASSISTANCE PROGRAM; AND

2. EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, SHALL APPLY WHEN THE ENROLLEE IS TRANSITIONING FROM THE MARYLAND MEDICAL ASSISTANCE PROGRAM TO A CARRIER;

(II) SHALL APPLY TO CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2015; AND

(III) SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, WITH RESPECT TO DENTAL BENEFITS, SHALL APPLY TO COVERED SERVICES FOR WHICH A COORDINATED TREATMENT PLAN IS IN PROGRESS.

(C) (1) WITH RESPECT TO ANY BENEFIT OR SERVICE PROVIDED THROUGH THE MARYLAND MEDICAL ASSISTANCE FEE–FOR–SERVICE PROGRAM, THIS SUBSECTION SHALL APPLY:

(I) ONLY TO ENROLLEES TRANSITIONING FROM THE MARYLAND MEDICAL ASSISTANCE PROGRAM TO A CARRIER; AND

(II) ONLY TO BEHAVIORAL HEALTH AND DENTAL BENEFITS, TO THE EXTENT THEY ARE AUTHORIZED BY A THIRD–PARTY ADMINISTRATOR.

(2) SUBJECT TO PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION, AT THE REQUEST OF AN ENROLLEE OR AN ENROLLEE'S PARENT, GUARDIAN, ~~OR~~ DESIGNEE, OR HEALTH CARE PROVIDER, A RECEIVING CARRIER OR MANAGED CARE ORGANIZATION SHALL ACCEPT A ~~PRIOR AUTHORIZATION~~ PREAUTHORIZATION FROM A RELINQUISHING CARRIER ~~OR~~, MANAGED CARE ORGANIZATION, OR THIRD–PARTY ADMINISTRATOR FOR:

(I) THE PROCEDURES, TREATMENTS, MEDICATIONS, OR SERVICES COVERED BY THE BENEFITS OFFERED BY THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION; AND

(II) THE FOLLOWING TIME PERIODS:

1. THE LESSER OF THE COURSE OF TREATMENT OR 90 DAYS; AND

2. THE DURATION OF THE THREE TRIMESTERS OF A PREGNANCY AND THE INITIAL POSTPARTUM VISIT.

(3) SUBJECT TO APPLICABLE LAWS RELATING TO THE CONFIDENTIALITY OF MEDICAL RECORDS, INCLUDING 42 C.F.R. PART 2, AT THE REQUEST AND WITH THE CONSENT OF AN ENROLLEE OR AN ENROLLEE'S PARENT, GUARDIAN, OR DESIGNEE, A RELINQUISHING CARRIER, MANAGED CARE ORGANIZATION, OR THIRD–PARTY ADMINISTRATOR, SHALL PROVIDE A COPY OF A PREAUTHORIZATION TO THE ENROLLEE'S RECEIVING CARRIER OR MANAGED CARE ORGANIZATION WITHIN 10 DAYS AFTER RECEIPT OF THE REQUEST.

~~(2)~~ (4) AFTER THE TIME PERIODS UNDER PARAGRAPH ~~(1)(II)~~ (2)(II) HAVE LAPSED, THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION MAY ELECT TO PERFORM ITS OWN UTILIZATION REVIEW IN ORDER TO:

(I) REASSESS AND MAKE ITS OWN DETERMINATION REGARDING THE NEED FOR CONTINUED TREATMENT; AND

(II) AUTHORIZE ANY CONTINUED PROCEDURE, TREATMENT, MEDICATION, OR SERVICE DETERMINED TO BE MEDICALLY NECESSARY.

(D) (1) SUBJECT TO PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, AT THE REQUEST OF AN ENROLLEE OR AN ENROLLEE'S PARENT, GUARDIAN, ~~OR~~ DESIGNEE, OR HEALTH CARE PROVIDER, A RECEIVING CARRIER OR MANAGED CARE ORGANIZATION SHALL ALLOW A NEW ENROLLEE TO CONTINUE TO RECEIVE HEALTH CARE SERVICES BEING RENDERED BY A NONPARTICIPATING PROVIDER AT THE TIME OF THE ENROLLEE'S TRANSITION TO THE RECEIVING HEALTH BENEFIT PLAN OR MANAGED CARE ORGANIZATION.

(2) (I) THE SERVICES AN ENROLLEE SHALL BE ALLOWED TO CONTINUE TO RECEIVE ARE SERVICES FOR:

~~(I)~~ 1. THE FOLLOWING CONDITIONS:

~~1.~~ A. ACUTE CONDITIONS;

~~2.~~ B. SERIOUS CHRONIC CONDITIONS;

~~3.~~ C. PREGNANCY; AND

~~4.~~ D. MENTAL HEALTH CONDITIONS AND SUBSTANCE USE DISORDERS; AND

2. ANY OTHER CONDITION ON WHICH THE NONPARTICIPATING PROVIDER AND THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION REACH AGREEMENT.

(II) EXAMPLES OF CONDITIONS SET FORTH IN SUBPARAGRAPH (I)1A AND B OF THIS PARAGRAPH MAY INCLUDE:

~~5.~~ 1. BONE FRACTURES;

~~6.~~ 2. JOINT REPLACEMENTS;

~~7.~~ 3. HEART ATTACKS ~~WITHIN THE PREVIOUS 30 DAYS~~;

~~8.~~ 4. CANCER ~~DIAGNOSED WITHIN THE PREVIOUS 60 DAYS~~;

~~9.~~ 5. HIV/AIDS; AND

~~10.~~ 6. ORGAN TRANSPLANTS~~; AND~~.

~~(II)~~ (III) AN ENROLLEE SHALL BE ALLOWED TO CONTINUE TO RECEIVE SERVICES FOR THE CONDITIONS UNDER THIS PARAGRAPH FOR THE TIME PERIODS UNDER SUBSECTION (C)(1)(II) OF THIS SECTION.

(3) (I) THIS PARAGRAPH DOES NOT APPLY TO COMPENSATION RATES OR METHODS OF PAYMENT ESTABLISHED UNDER § 14–205.2 OF THIS ARTICLE OR § 19–710.1 OF THE HEALTH – GENERAL ARTICLE.

(II) SUBJECT TO ~~PARAGRAPH (4)~~ PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, ~~THE NONPARTICIPATING PROVIDER AND~~ THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION, WITH RESPECT TO THE PROVISION OF THE COVERED SERVICES, SHALL ~~AGREE ON THE COMPENSATION RATES AND METHODS OF PAYMENT THAT MAY INCLUDE:~~

~~1.~~ PAY THE NONPARTICIPATING PROVIDER THE ~~RATES~~ RATE AND ~~METHODS~~ METHOD OF PAYMENT THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION NORMALLY WOULD PAY AND USE FOR PARTICIPATING PROVIDERS WHO PROVIDE SIMILAR SERVICES IN THE SAME OR SIMILAR GEOGRAPHIC AREA~~; OR~~

~~2. ANY OTHER RATES AND METHODS OF PAYMENT OTHERWISE IN COMPLIANCE WITH THIS SUBSECTION~~.

(III) THE NONPARTICIPATING PROVIDER MAY DECLINE TO ACCEPT THE RATE OR METHOD OF PAYMENT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH BY GIVING 10 DAYS' PRIOR NOTICE TO THE ENROLLEE AND RECEIVING CARRIER.

(IV) SUBJECT TO PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, IF THE NONPARTICIPATING PROVIDER DOES NOT ACCEPT THE RATE OR METHOD OF PAYMENT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE NONPARTICIPATING PROVIDER AND THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION MAY REACH AGREEMENT ON AN ALTERNATIVE RATE OR METHOD OF PAYMENT FOR THE PROVISION OF COVERED SERVICES.

(4) THE ~~AGREEMENT BETWEEN THE NONPARTICIPATING PROVIDER AND THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION~~ RATES AND METHODS OF PAYMENT UNDER PARAGRAPH (3)(II) AND (IV) OF THIS SUBSECTION SHALL:

(I) BE SUBJECT TO ANY STATE OR FEDERAL REQUIREMENTS APPLICABLE TO REIMBURSEMENT FOR HEALTH CARE PROVIDER SERVICES, INCLUDING:

1. § 1302(G) OF THE AFFORDABLE CARE ACT, WHICH APPLIES TO REIMBURSEMENT RATES FOR FEDERALLY QUALIFIED HEALTH CENTERS; AND

2. TITLE 19, SUBTITLE 2 OF THE HEALTH – GENERAL ARTICLE, UNDER WHICH THE HEALTH SERVICES COST REVIEW COMMISSION ESTABLISHES PROVIDER RATES; AND

(II) ENSURE THAT:

1. AN ENROLLEE IS NOT SUBJECT TO BALANCE BILLING; AND

2. THE COPAYMENTS, DEDUCTIBLES, AND ANY COINSURANCE REQUIRED OF AN ENROLLEE FOR THE SERVICES RENDERED IN ACCORDANCE WITH THIS SECTION ARE THE SAME AS THOSE THAT WOULD BE REQUIRED IF THE ENROLLEE WERE RECEIVING THE SERVICES FROM A PARTICIPATING PROVIDER OF THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION.

(5) IF THE NONPARTICIPATING PROVIDER DOES NOT ACCEPT THE RATE AND METHOD OF COMPENSATION UNDER PARAGRAPH (3)(II) OF THIS

SUBSECTION, AND THE CARRIER OR MANAGED CARE ORGANIZATION ~~DO~~ DOES NOT REACH AN AGREEMENT WITH THE NONPARTICIPATING PROVIDER FOR AN ALTERNATIVE RATE AND METHOD OF PAYMENT UNDER PARAGRAPH ~~(3)~~ (3)(IV) OF THIS SUBSECTION:

(I) THE NONPARTICIPATING PROVIDER IS NOT REQUIRED TO CONTINUE TO PROVIDE THE SERVICES; ~~AND~~

(II) § 14–205.3 OF THIS ARTICLE, UNDER WHICH AN ENROLLEE MAY ASSIGN BENEFITS TO A NONPREFERRED PROVIDER AND THE PROVIDER MAY BALANCE BILL THE ENROLLEE, SHALL APPLY TO THE EXTENT IT WOULD APPLY ABSENT THIS SECTION; AND

(III) UNLESS THE ENROLLEE HAS ASSIGNED BENEFITS TO A NONPREFERRED PROVIDER UNDER § 14–205.3 OF THIS ARTICLE, THE CARRIER OR MANAGED CARE ORGANIZATION ~~IS NOT REQUIRED TO ALLOW THE SERVICES TO BE PROVIDED BY THE NONPARTICIPATING PROVIDER~~ SHALL FACILITATE TRANSITION OF THE ENROLLEE TO A PROVIDER ON THE PROVIDER PANEL OF THE CARRIER OR MANAGED CARE ORGANIZATION.

(E) (1) THIS SECTION DOES NOT:

~~(1)~~ (I) REQUIRE A CARRIER OR MANAGED CARE ORGANIZATION TO COVER SERVICES OR PROVIDE BENEFITS THAT ARE NOT OTHERWISE COVERED UNDER THE TERMS AND CONDITIONS OF A HEALTH BENEFIT PLAN, THE MARYLAND MEDICAL ASSISTANCE PROGRAM, OR THE MARYLAND CHILDREN'S HEALTH PROGRAM; OR

~~(2)~~ (II) PRECLUDE A CARRIER OR MANAGED CARE ORGANIZATION FROM PROVIDING CONTINUITY OF CARE BEYOND THE REQUIREMENTS OF THIS SECTION WITHIN THE PARAMETERS OF THE APPROVED RATES OF THE CARRIER OR MANAGED CARE ORGANIZATION.

(2) (I) TO ENSURE CONTINUITY OF TREATMENT IN PROGRESS FOR DENTAL SERVICES PROVIDED TO AN ENROLLEE, A RELINQUISHING CARRIER MAY ELECT TO ALLOW AN ENROLLEE TO CONTINUE TO RECEIVE DENTAL SERVICES BEING PROVIDED BY A PARTICIPATING PROVIDER OF THE RELINQUISHING CARRIER THROUGH AN ARRANGEMENT IN WHICH THE RELINQUISHING CARRIER PAYS THE PARTICIPATING PROVIDER ACCORDING TO THE RATE AND METHOD OF PAYMENT THE RELINQUISHING CARRIER NORMALLY WOULD PAY AND USE FOR THE PARTICIPATING PROVIDER.

(II) THE RATE AND METHOD OF PAYMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL COMPLY WITH:

1. THE PROHIBITION ON BALANCE BILLING UNDER SUBSECTION (D)(4)(II) OF THIS SECTION; AND

2. ANY COPAYMENTS, DEDUCTIBLES, AND COINSURANCE REQUIREMENTS IN THE ENROLLEE'S HEALTH BENEFIT PLAN UNDER THE RELINQUISHING CARRIER.

(F) (1) A RECEIVING CARRIER OR MANAGED CARE ORGANIZATION SHALL PROVIDE NOTICE TO A NEW ENROLLEE OF THE ENROLLEE'S OPTIONS AND RESPONSIBILITIES UNDER THIS SECTION IN A MANNER PRESCRIBED BY THE COMMISSIONER.

(2) THE REQUIREMENTS OF THIS SECTION ARE:

(I) IN ADDITION TO ANY OTHER LEGAL, PROFESSIONAL, OR ETHICAL OBLIGATIONS OF A CARRIER OR MANAGED CARE ORGANIZATION TO PROVIDE CONTINUITY OF CARE; AND

(II) NOT INTENDED TO LIMIT OR MAKE MORE RESTRICTIVE ANY OTHER CONTINUITY OF CARE REQUIREMENTS IN STATE OR FEDERAL LAW, REGULATIONS, OR PROFESSIONAL CODES OF CONDUCT.

(G) THE COMMISSIONER AND THE SECRETARY OF HEALTH AND MENTAL HYGIENE EACH MAY ADOPT REGULATIONS TO ENFORCE THE REQUIREMENTS OF THIS SECTION.

(H) (1) THE COMMISSIONER, THE MARYLAND HEALTH BENEFIT EXCHANGE, AND THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL COLLABORATE TO~~:~~

~~(1)~~ DETERMINE THE DATA, TO THE EXTENT ITS COLLECTION IS FEASIBLE AND PERMITTED BY LAW, THAT IS NECESSARY TO:

(I) ASSESS THE IMPLEMENTATION AND EFFICACY OF THE REQUIREMENTS OF THIS SECTION; AND

(II) DEVELOP A PROCESS TO EVALUATE AND MONITOR CONTINUITY OF CARE, WITH PARTICULAR FOCUS ON NEWLY ELIGIBLE POPULATIONS, ANY DISPARATE OR DISCRIMINATORY IMPACT ON SPECIFIC POPULATIONS, AND TRENDS IN HEALTH DISPARITIES~~; AND~~.

(2) ON REQUEST ~~THE REQUISITE DATA FROM~~ OF THE COMMISSIONER, THE MARYLAND HEALTH BENEFIT EXCHANGE, OR THE

SECRETARY OF HEALTH AND MENTAL HYGIENE CARRIERS, MANAGED CARE ORGANIZATIONS, AND HEALTH CARE PROVIDERS SHALL PROVIDE THE REQUISITE DATA.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

15–1303.

(b) (2) A carrier is exempt from the requirement in paragraph (1) of this subsection if:

(i) **1.** the reported total aggregate annual earned premium from all individual health benefit plans in the State for the carrier and any other carriers in the same insurance holding company system, as defined in § 7–101 of this article, is less than $10,000,000**; OR**

2. THE ONLY INDIVIDUAL HEALTH BENEFIT PLANS THAT THE CARRIER OFFERS IN THE STATE ARE STUDENT HEALTH PLANS AS DEFINED IN 45 C.F.R. § 147.145;

(ii) the Commissioner determines that the carrier complies with the procedures established under paragraph (3) of this subsection; and

(iii) when the carrier ceases to meet the requirements for the exemption, the carrier provides to the Commissioner immediate notice and its plan for complying with the requirement in paragraph (1) of this subsection.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That:

(a) It is the intent of the General Assembly that carriers, managed care organizations, and providers shall succeed in ~~reaching agreement on payment for~~ providing continuity of care in the provision of covered services ~~to ensure continuity of care~~, as required under § 15–140(d) of the Insurance Article, as enacted by Section 3 of this Act, in order to minimize harmful disruptions in care for Marylanders without requiring further legislative directive regarding mandatory rates of compensation and methods of payment.

(b) Using the data requested under § 15–140(h) of the Insurance Article, as enacted by Section 3 of this Act, the Maryland Health Benefit Exchange, the Department of Health and Mental Hygiene, ~~and~~ the Maryland Insurance Administration, and the Maryland Health Care Commission shall conduct a study on the implementation and efficacy of the requirements of § 15–140 of the Insurance Article, as enacted by Section 3 of this Act.

(c) On or before December 1, 2017, the Exchange, the Department, ~~and~~ the Administration, and the Maryland Health Care Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on:

(1) the findings of the study, which, to the extent feasible, shall ~~including~~ include the extent to which § 15–140(d) of the Insurance Article, as enacted by Section 3 this Act, has:

(i) been effective in promoting continuity of care for Marylanders; ~~and~~

(ii) affected newly eligible populations and trends in health disparities;

(iii) had a disparate impact on specific populations, including individuals suffering from mental health and substance use disorders; and

(iv) had a discriminatory impact based on gender identity or sexual orientation; and

(2) recommendations as to additional legislation, if any, that should be considered regarding rates of compensation and methods of payment, or any other measures that would increase the effectiveness of the State's efforts to promote continuity of care.

~~SECTION 5. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Performance Standards and Measurement Advisory Committee established under Section 2 of this Act shall expire as follows:~~

~~(1) three members in 2014;~~

~~(2) five members in 2015; and~~

~~(3) five members in 2016.~~

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Benefit Exchange and the Maryland Insurance Administration shall:

(1) conduct a study of the impact of the Affordable Care Act's allowance of a tobacco use rating of 1.5 to 1, including:

(i) its effect on insurance premiums generally;

(ii) its effect on the affordability and purchase of insurance, and access to health care, for tobacco users; and

(iii) any disparate impact on specific vulnerable populations; and

(2) assess the options that may be available to the State to address any adverse consequences of the tobacco use rating.

(b) On or before September 1, 2014, the Maryland Health Benefit Exchange and the Maryland Insurance Administration shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on the findings of the study and any recommendations for further legislative action.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) Pending adoption of regulations under Title 31 of the Insurance Article, and after receiving comment from the Joint Committee on Administrative, Executive, and Legislative Review, the Senate Finance Committee, the House Health and Government Operations Committee, carriers, and the public, the Board of Trustees of the Maryland Health Benefit Exchange may adopt interim policies, if necessary, to ensure that the Maryland Health Benefit Exchange:

(1) is fully prepared to begin successful operations by October 1, 2013; and

(2) is and will remain in compliance with all federal laws, regulations, policies, and deadlines.

(b) Interim policies under subsection (a) of this section:

(1) may be adopted only when necessary to ensure that the Maryland Health Benefit Exchange is in compliance with federal policies, which have been and will likely continue to be in flux;

(2) shall be made public on adoption;

(3) shall be submitted as proposed regulations to the Joint Committee on Administrative, Executive, and Legislative Review within 6 months after adoption by the Board of Trustees; and

(4) shall sunset no later than 1 year after submission as proposed regulations to the Joint Committee on Administrative, Executive, and Legislative Review.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Benefit Exchange and the Maryland Insurance Administration shall:

(1) conduct a study of the impact of federal regulations governing the manner in which pediatric dental benefits must be offered and purchased inside and outside the Maryland Health Benefit Exchange, including:

(i) their effect on the affordability and accessibility of pediatric dental benefits; and

(ii) their effect on children's access to dental care; and

(2) assess the options that may be available to the State to address any adverse consequences of the manner in which pediatric dental benefits must be offered and purchased under the federal regulations.

(b) On or before December 1, 2014, the Maryland Health Benefit Exchange and the Maryland Insurance Administration shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the findings of the study and any recommendations for further legislative action.

SECTION 9. AND BE IT FURTHER ENACTED, That:

(a) (1) The Maryland Health Benefit Exchange and the Maryland Insurance Administration shall conduct a study of the captive producer program established under Section 2 of this Act.

(2) The study shall include an analysis of the effect of the program on:

(i) Exchange enrollment;

(ii) reduction in the percentage of the State's uninsured;

(iii) the percentage of Maryland residents eligible for federal subsidies and cost–sharing assistance who access federal affordability programs; and

(iv) the percentage of Maryland residents who transition from health benefit plans outside the Exchange to qualified health plans inside the Exchange.

(b) On or before December 1, 2015, the Maryland Health Benefit Exchange and the Maryland Insurance Administration shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the findings of the study and any recommendations for further legislative action.

SECTION 10. AND BE IT FURTHER ENACTED, That the changes to § 6–101(b) of the Insurance Article, as enacted by Section 2 of this Act, shall remain

effective for a period of 5 years and 1 month and, at the end of June 30, 2018, with no further action required by the General Assembly, the changes to § 6–101(b) of the Insurance Article shall be abrogated and of no further force and effect.

SECTION ~~5.~~ ~~10.~~ 11. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2014.

SECTION ~~6.~~ ~~11.~~ 12. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect January 1, 2015.

SECTION 13. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect January 1, 2014, the effective date of Section 2 of Chapter 152 of the Acts of the General Assembly of 2012. If the effective date of Section 2 of Chapter 152 is amended, Section 4 of this Act shall take effect on the taking effect of Section 2 of Chapter 152.

SECTION ~~7.~~ ~~12.~~ 14. AND BE IT FURTHER ENACTED, That, except as provided in Sections ~~5 and 6~~ ~~10 and 11~~ 11, 12 and 13 of this Act, this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 160

(Senate Bill 4)

AN ACT concerning

State Personnel – Applicants for Employment – Criminal History Records Checks

FOR the purpose of prohibiting certain appointing authorities in the Judicial, Executive, and Legislative branches of State government from inquiring into the criminal record or criminal history of an applicant for employment until the applicant has been provided an opportunity for an interview; providing that this Act does not prohibit certain appointing authorities from notifying an applicant for employment of certain information; providing for certain exceptions; requiring the Department of Budget and Management to make certain reports to the General Assembly; providing for the termination of certain provisions of this Act; and generally relating to the conduct of criminal history records checks on applicants for employment in the Judicial, Executive, and Legislative branches of State government.

BY adding to
Article – State Personnel and Pensions

Section 2–203
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

2–203.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THIS SECTION APPLIES TO ALL EMPLOYEES IN THE JUDICIAL, LEGISLATIVE, AND EXECUTIVE BRANCHES OF STATE GOVERNMENT.

(B) THIS SECTION DOES NOT APPLY TO:

(1) A POSITION IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; ~~OR~~

(2) A POSITION FOR WHICH AN APPOINTING AUTHORITY HAS A STATUTORY DUTY TO CONDUCT A CRIMINAL HISTORY RECORDS CHECK*; OR*

***(3) A POSITION IN THE OFFICE OF THE SHERIFF FOR ANY COUNTY*.**

(C) EXCEPT FOR A POSITION IN THE STATE PERSONNEL MANAGEMENT SYSTEM FOR WHICH THE SECRETARY DETERMINES THAT THE SPECIFIC DUTIES AND RESPONSIBILITIES OF THE POSITION WOULD REQUIRE THE APPOINTING AUTHORITY TO KNOW AN APPLICANT'S CRIMINAL HISTORY, AN APPOINTING AUTHORITY MAY NOT INQUIRE INTO THE CRIMINAL RECORD OR CRIMINAL HISTORY OF AN APPLICANT FOR EMPLOYMENT UNTIL THE APPLICANT HAS BEEN PROVIDED AN OPPORTUNITY FOR AN INTERVIEW.

(D) THIS SECTION DOES NOT PROHIBIT AN APPOINTING AUTHORITY FROM NOTIFYING AN APPLICANT FOR EMPLOYMENT THAT CERTAIN PRIOR CRIMINAL CONVICTIONS MAY PROHIBIT EMPLOYMENT IN SOME POSITIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

2–203.

(E) THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, BY OCTOBER 1 OF EACH YEAR FOR THE PREVIOUS FISCAL YEAR ON:

(1) THE TOTAL NUMBER OF POSITIONS THAT HAVE BEEN FILLED IN THE STATE PERSONNEL MANAGEMENT SYSTEM; AND

(2) THE NUMBER OF POSITIONS THAT HAVE BEEN DESIGNATED AS EXCEPTIONS BY THE SECRETARY UNDER SUBSECTION (C) OF THIS SECTION, BY AGENCY AND POSITION CLASSIFICATION.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2013. It shall remain effective for a period of 4 years and 9 months and, at the end of June 30, 2018, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That~~, except as provided in Section 3 of this Act,~~ this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 161

(Senate Bill 8)

AN ACT concerning

Gas Companies – Rate Regulation – Infrastructure Replacement Surcharge

FOR the purpose of authorizing a gas company to recover certain costs associated with certain gas infrastructure replacement projects through a certain gas infrastructure replacement surcharge on customer bills; requiring project cost calculations to include certain elements; specifying when costs shall be collectible; specifying how the pretax rate of return shall be calculated and adjusted and what it shall include; prohibiting a certain monthly surcharge from exceeding a certain amount for certain customers; providing for the allocation of certain costs among customer classes; providing that certain adjustments for return on equity shall only be considered and determined in a certain base rate case; requiring the Public Service Commission to consider certain factors when establishing revenue requirements; authorizing the Commission to hold a public hearing on a plan within a certain period of time; requiring the Commission to take final action on a plan within a certain period of time; requiring the Commission to take final action on an amendment to ~~a~~ an

approved plan within a certain period of time; authorizing the Commission to approve a plan under certain circumstances; requiring the Commission to approve a cost–recovery schedule under certain circumstances; requiring that a surcharge be in effect for a certain time; requiring a gas company to file base rate case applications within a certain period of time; specifying costs to be included in a surcharge when base rate applications are filed; authorizing a gas company to implement a plan under certain circumstances; requiring a gas company implementing a plan to make certain refunds under certain circumstances; requiring the Commission to authorize the gas company to increase a surcharge under certain circumstances; prohibiting the Commission from considering certain factors when reviewing a plan except under certain circumstances; requiring a gas company to file certain plan amendments each year with the Commission; authorizing the Commission to review certain plans and take certain actions based on the review; requiring a gas company to file a revised base rate schedule with the Commission to subtract certain costs from a surcharge under certain circumstances; stating the intent of the General Assembly with regard to the surcharge; defining certain terms; and generally relating to natural gas rate regulation and gas infrastructure replacement surcharges.

BY adding to
Article – Public Utilities
Section 4–210
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

4–210.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CUSTOMER" MEANS A RETAIL NATURAL GAS CUSTOMER.

(3) "ELIGIBLE INFRASTRUCTURE REPLACEMENT" MEANS A REPLACEMENT OR AN IMPROVEMENT IN AN EXISTING INFRASTRUCTURE OF A GAS COMPANY THAT:

(I) IS MADE ON OR AFTER JUNE 1, 2013;

(II) IS DESIGNED TO IMPROVE PUBLIC SAFETY OR INFRASTRUCTURE RELIABILITY;

(III) DOES NOT INCREASE THE REVENUE OF A GAS COMPANY BY CONNECTING AN IMPROVEMENT DIRECTLY TO NEW CUSTOMERS;

(IV) REDUCES OR HAS THE POTENTIAL TO REDUCE GREENHOUSE GAS EMISSIONS THROUGH A REDUCTION IN NATURAL GAS SYSTEM LEAKS; AND

(V) IS NOT INCLUDED IN THE CURRENT RATE BASE OF THE GAS COMPANY AS DETERMINED IN THE GAS COMPANY'S MOST RECENT BASE RATE PROCEEDING.

(4) "PLAN" MEANS A PLAN THAT A GAS COMPANY FILES UNDER SUBSECTION (D) OF THIS SECTION.

(5) "PROJECT" MEANS AN ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECT PROPOSED BY A GAS COMPANY IN A PLAN FILED UNDER THIS SECTION.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PURPOSE OF THIS SECTION IS TO ACCELERATE GAS INFRASTRUCTURE IMPROVEMENTS IN THE STATE BY ESTABLISHING A MECHANISM FOR GAS COMPANIES TO PROMPTLY RECOVER REASONABLE AND PRUDENT COSTS OF INVESTMENTS IN ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS SEPARATE FROM BASE RATE PROCEEDINGS.

(C) THIS SECTION DOES NOT APPLY TO A GAS COOPERATIVE.

(D) (1) A GAS COMPANY MAY FILE WITH THE COMMISSION:

(I) A PLAN TO INVEST IN ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS; AND

(II) IN ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION, A COST–RECOVERY SCHEDULE ASSOCIATED WITH THE PLAN THAT INCLUDES A FIXED ANNUAL SURCHARGE ON CUSTOMER BILLS TO RECOVER REASONABLE AND PRUDENT COSTS OF PROPOSED ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS.

(2) A PLAN UNDER THIS SUBSECTION SHALL INCLUDE:

(I) A TIME LINE FOR THE COMPLETION OF EACH ELIGIBLE PROJECT;

(II) THE ESTIMATED COST OF EACH PROJECT; ~~AND~~

(III) A DESCRIPTION OF CUSTOMER BENEFITS UNDER THE PLAN; AND

(IV) ANY OTHER INFORMATION THE COMMISSION CONSIDERS NECESSARY TO EVALUATE THE PLAN.

(3) (I) WHEN CALCULATING THE ESTIMATED COST OF A PROJECT UNDER PARAGRAPH (2) OF THIS SUBSECTION, A GAS COMPANY SHALL INCLUDE:

1. THE PRETAX RATE OF RETURN ON THE GAS COMPANY'S INVESTMENT IN THE PROJECT;

2. DEPRECIATION ASSOCIATED WITH THE PROJECT, BASED ON NEW ASSETS LESS RETIRED PLANT; AND

3. PROPERTY TAXES ASSOCIATED WITH THE PROJECT, BASED ON NEW ASSETS LESS RETIRED PLANT.

(II) THE ESTIMATED PROJECT COSTS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE COLLECTIBLE AT THE SAME TIME THE ELIGIBLE INFRASTRUCTURE REPLACEMENT IS MADE.

(III) THE PRETAX RATE OF RETURN UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH SHALL:

1. BE CALCULATED USING THE GAS COMPANY'S CAPITAL STRUCTURE AND WEIGHTED AVERAGE COST OF CAPITAL AS THE COMMISSION APPROVED IN THE GAS COMPANY'S MOST RECENT BASE RATE PROCEEDING; AND

2. INCLUDE AN ADJUSTMENT FOR BAD DEBT EXPENSES AS THE COMMISSION APPROVED IN THE GAS COMPANY'S MOST RECENT BASE RATE PROCEEDING.

(4) FOR A PLAN FILED UNDER THIS SECTION:

(I) THE COST–RECOVERY SCHEDULE SHALL INCLUDE ~~ON EACH RESIDENTIAL CUSTOMER ACCOUNT~~ A FIXED ANNUAL SURCHARGE THAT:

1. MAY NOT EXCEED $2 EACH MONTH ON EACH RESIDENTIAL CUSTOMER ACCOUNT; AND

2. FOR EACH NONRESIDENTIAL CUSTOMER ACCOUNT, MAY NOT BE LESS THAN THE FIXED ANNUAL SURCHARGE APPLICABLE TO A RESIDENTIAL CUSTOMER ACCOUNT, BUT SHALL BE CAPPED UNDER ITEM (II) OF THIS PARAGRAPH; AND

(II) TO CREATE A SURCHARGE CAP FOR ALL CUSTOMER CLASSES, COSTS SHALL BE ALLOCATED TO NONRESIDENTIAL AND RESIDENTIAL CUSTOMERS CONSISTENT WITH THE PROPORTIONS OF TOTAL DISTRIBUTION REVENUES THAT THOSE CLASSES BEAR IN ACCORDANCE WITH THE MOST RECENT BASE RATE PROCEEDING FOR THE GAS COMPANY.

(5) IN A BASE RATE PROCEEDING AFTER APPROVAL OF A PLAN, THE COMMISSION SHALL, IN ESTABLISHING A GAS COMPANY'S REVENUE REQUIREMENTS, TAKE INTO ACCOUNT ANY BENEFITS THE GAS COMPANY REALIZED AS A RESULT OF A SURCHARGE APPROVED UNDER THE PLAN.

(6) ANY ADJUSTMENT FOR RETURN ON EQUITY BASED ON AN APPROVED PLAN ONLY SHALL BE CONSIDERED AND DETERMINED IN A SUBSEQUENTLY FILED BASE RATE CASE.

(E) (1) WITHIN 180 DAYS AFTER A GAS COMPANY FILES A PLAN, THE COMMISSION:

(I) MAY HOLD A PUBLIC HEARING ON THE PLAN; AND

(II) SHALL TAKE A FINAL ACTION TO APPROVE OR DENY THE PLAN.

(2) WITHIN 120 DAYS AFTER A GAS COMPANY FILES AN AMENDMENT TO ~~A~~ AN APPROVED PLAN, THE COMMISSION SHALL TAKE FINAL ACTION TO APPROVE OR DENY THE AMENDMENT.

(3) THE COMMISSION MAY APPROVE A PLAN IF IT FINDS THAT THE INVESTMENTS AND ESTIMATED COSTS OF ELIGIBLE INFRASTRUCTURE REPLACEMENT PROJECTS ARE:

(I) REASONABLE AND PRUDENT; AND

(II) DESIGNED TO IMPROVE PUBLIC SAFETY OR INFRASTRUCTURE RELIABILITY OVER THE SHORT TERM AND LONG TERM.

(4) (I) THE COMMISSION SHALL APPROVE THE COST–RECOVERY SCHEDULE ASSOCIATED WITH THE PLAN AT THE SAME TIME THAT IT APPROVES THE PLAN.

(II) COSTS RECOVERED UNDER THE SCHEDULE APPROVED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY RELATE ONLY TO THE PROJECTS WITHIN THE PLAN APPROVED BY THE COMMISSION.

(5) THE COMMISSION MAY NOT CONSIDER A REVENUE REQUIREMENT OR RATE–MAKING ISSUE THAT IS NOT RELATED TO THE PLAN WHEN REVIEWING A PLAN FOR APPROVAL OR DENIAL UNLESS THE PLAN IS FILED IN CONJUNCTION WITH A BASE RATE CASE.

(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE COMMISSION DOES NOT TAKE FINAL ACTION ON A PLAN WITHIN THE TIME PERIOD REQUIRED UNDER SUBSECTION (E) OF THIS SECTION, THE GAS COMPANY MAY IMPLEMENT THE PLAN.

(2) IF A GAS COMPANY IMPLEMENTS A PLAN THAT THE COMMISSION HAS NOT APPROVED, THE GAS COMPANY SHALL REFUND TO CUSTOMERS ANY AMOUNT OF THE SURCHARGE THAT THE COMMISSION LATER DETERMINES IS ~~UNJUSTIFIED~~ NOT REASONABLE OR PRUDENT, INCLUDING INTEREST.

(G) (1) (I) A SURCHARGE UNDER THIS SECTION SHALL BE IN EFFECT FOR 5 YEARS FROM THE DATE OF INITIAL IMPLEMENTATION OF AN APPROVED PLAN.

(II) 1. BEFORE THE END OF THE 5–YEAR PERIOD, THE GAS COMPANY SHALL FILE A BASE RATE CASE APPLICATION.

2. IN A BASE RATE PROCEEDING FILED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, IF A PLAN APPROVED BY THE COMMISSION REMAINS IN EFFECT:

A. ELIGIBLE INFRASTRUCTURE PROJECT COSTS INCLUDED IN BASE RATES IN ACCORDANCE WITH A FINAL COMMISSION ORDER ON THE BASE RATE CASE SHALL BE REMOVED FROM A SURCHARGE; AND

B. THE SURCHARGE MECHANISM SHALL CONTINUE FOR ELIGIBLE FUTURE INFRASTRUCTURE PROJECT COSTS THAT ARE NOT INCLUDED IN THE BASE RATE CASE.

(2) (I) IF THE ACTUAL COST OF ~~A PROJECT IN~~ A PLAN IS LESS THAN THE AMOUNT COLLECTED UNDER A SURCHARGE, THE GAS COMPANY SHALL REFUND TO CUSTOMERS THE DIFFERENCE ON CUSTOMER BILLS, INCLUDING INTEREST.

(II) IF THE ACTUAL COST OF ~~A PROJECT IN~~ A PLAN IS MORE THAN THE AMOUNT COLLECTED UNDER THE SURCHARGE AND THE COMMISSION DETERMINES THAT THE HIGHER COSTS WERE REASONABLY AND PRUDENTLY INCURRED, THE COMMISSION SHALL AUTHORIZE THE GAS COMPANY TO INCREASE THE SURCHARGE TO RECOVER THE DIFFERENCE, SUBJECT TO THE RATE LIMIT UNDER SUBSECTION (D)(4) OF THIS SECTION.

(H) EACH YEAR A GAS COMPANY SHALL FILE WITH THE COMMISSION ~~AN AMENDMENT TO A PLAN~~ A RECONCILIATION TO ADJUST THE AMOUNT OF A SURCHARGE TO ACCOUNT FOR ANY DIFFERENCE BETWEEN THE ~~ESTIMATED COST OF A PROJECT IN~~ ACTUAL COST OF A PLAN AND THE ACTUAL AMOUNT RECOVERED UNDER THE SURCHARGE.

(I) IF, AFTER APPROVING A SURCHARGE IN A PLAN, THE COMMISSION ESTABLISHES NEW BASE RATES FOR THE GAS COMPANY THAT INCLUDE COSTS ON WHICH THE SURCHARGE IS BASED, THE GAS COMPANY SHALL FILE A REVISED RATE SCHEDULE WITH THE COMMISSION THAT SUBTRACTS THOSE COSTS FROM THE SURCHARGE.

(J) (1) THE COMMISSION MAY REVIEW A PREVIOUSLY APPROVED PLAN.

(2) IF THE COMMISSION DETERMINES THAT AN INVESTMENT OF A PROJECT OR COST OF A PROJECT NO LONGER MEETS THE REQUIREMENTS OF SUBSECTION (E)(3) OF THIS SECTION, THE COMMISSION MAY:

(I) REDUCE FUTURE BASE RATES OR SURCHARGES; OR

(II) ALTER OR RESCIND APPROVAL OF THAT PART OF THE PLAN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 162

(Senate Bill 11)

AN ACT concerning

Natural Resources – State Boat Act – Expiration of Temporary Certificate of Boat Number

FOR the purpose of altering the expiration date for a temporary certificate of boat number; and generally relating to temporary certificates of boat number.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–710.2(c)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

8–710.2.

(c) A temporary certificate of boat number expires when the first of either of the following occurs:

(1) A certificate of boat number for the vessel is issued by the Department; or

(2) **[**90**]** **60** days expire from the date the temporary certificate was issued by the dealer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 163

(Senate Bill 12)

AN ACT concerning

Labor and Employment – Leave – Deployment of Family Members in the Armed Forces

FOR the purpose of authorizing certain employees to take leave from work on the day that an immediate family member is leaving for, or returning from, active duty outside the United States as a member of the armed forces of the United States; prohibiting an employer from requiring an employee to use certain leave when taking leave under this Act; authorizing an employer to require an employee who requests leave under this Act to submit certain proof to the employer; defining certain terms; and generally relating to the use of leave by employees and the deployment of immediate family members in the armed forces.

BY adding to
Article – Labor and Employment
Section 3–803
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

3–803.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "EMPLOYEE" MEANS AN INDIVIDUAL <u>WHO:</u>

<u>(I)</u> <u>IS</u> EMPLOYED BY AN EMPLOYER TO WORK FULL–TIME OR PART–TIME<u>;</u>

<u>(II) HAS WORKED FOR THE EMPLOYER FOR THE LAST 12 MONTHS; AND</u>

<u>(III) HAS WORKED FOR AT LEAST 1,250 HOURS DURING THE LAST 12 MONTHS</u>.

(3) "EMPLOYER" MEANS:

(I) A PERSON <u>THAT:</u>

<u>1. EMPLOYS 50 OR MORE INDIVIDUALS; AND</u>

2. IS ENGAGED IN A BUSINESS, INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE;

(II) THE STATE AND ITS UNITS;

(III) A COUNTY AND ITS UNITS; OR

(IV) A MUNICIPAL GOVERNMENT IN THE STATE.

(4) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, PARENT, STEPPARENT, CHILD, STEPCHILD, OR SIBLING.

(B) AN EMPLOYEE MAY TAKE LEAVE FROM WORK ON THE DAY THAT AN IMMEDIATE FAMILY MEMBER OF THE EMPLOYEE IS LEAVING FOR, OR RETURNING FROM, ACTIVE DUTY OUTSIDE THE UNITED STATES AS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES.

(C) AN EMPLOYER MAY NOT REQUIRE AN EMPLOYEE TO USE COMPENSATORY, SICK, OR VACATION LEAVE WHEN TAKING LEAVE UNDER THIS SECTION.

(D) AN EMPLOYER MAY REQUIRE AN EMPLOYEE REQUESTING LEAVE UNDER THIS SECTION TO SUBMIT PROOF TO THE EMPLOYER VERIFYING THAT THE LEAVE IS BEING TAKEN IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 164

(Senate Bill 19)

AN ACT concerning

Crimes – Aiming Laser Pointer at Aircraft

FOR the purpose of making it a misdemeanor to knowingly and willfully shine, point, or focus the beam of a laser pointer on an individual operating an aircraft; exempting certain individuals from this Act under certain circumstances; specifying a penalty; ~~specifying that a sentence imposed under this Act is in~~

~~addition to a certain other sentence;~~ defining a certain term; and generally relating to the criminal use of a laser pointer.

BY adding to
Article – Criminal Law
Section 3–807
Annotated Code of Maryland
(2002 Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

3–807.

(A) IN THIS SECTION, "LASER POINTER" HAS THE MEANING STATED IN § 3–806 OF THIS SUBTITLE.

(B) THIS SECTION DOES NOT APPLY TO THE USE OF A LASER POINTER:

(1) BY AN INDIVIDUAL CONDUCTING RESEARCH AND DEVELOPMENT OR FLIGHT TESTING FOR AN AIRCRAFT MANUFACTURER OR THE FEDERAL AVIATION ADMINISTRATION;

(2) BY A MEMBER OF THE UNITED STATES DEPARTMENT OF DEFENSE OR THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY ACTING IN AN OFFICIAL CAPACITY DURING AN ACTIVITY RELATED TO RESEARCH AND DEVELOPMENT, FLIGHT TESTING, OR TRAINING;

(3) BY A LAW ENFORCEMENT OFFICER, AS DEFINED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE, ACTING IN AN OFFICIAL CAPACITY;

(4) BY AN INDIVIDUAL ATTEMPTING TO MAKE THE INDIVIDUAL'S LOCATION KNOWN; OR

(5) BY AN INDIVIDUAL ATTEMPTING TO GIVE A WARNING SIGNAL.

(C) A PERSON MAY NOT KNOWINGLY AND WILLFULLY SHINE, POINT, OR FOCUS THE BEAM OF A LASER POINTER ON AN INDIVIDUAL OPERATING AN AIRCRAFT.

(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $2,500 OR BOTH.

~~(E) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE IN ADDITION TO ANY OTHER SENTENCE IMPOSED FOR A CONVICTION ARISING FROM THE SAME FACTS AND CIRCUMSTANCES.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 165

(Senate Bill 21)

AN ACT concerning

Natural Resources – Aquaculture Coordinating Council – Reporting Date

FOR the purpose of altering the date by which the Aquaculture Coordinating Council must make certain proposals and recommendations to the Governor and certain legislative committees each year; and generally relating to the Aquaculture Coordinating Council.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–11A–03.2(a)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–11A–03.2(c)(1)(i)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

4–11A–03.2.

(a) There is an Aquaculture Coordinating Council.

(c) (1) The Coordinating Council shall:

(i) Formulate and make proposals to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before **[**October 1**]** **JUNE 30** of each year for advancing Maryland aquaculture, including recommendations for a fee structure on aquaculture operations in order to reduce State expenditures on aquaculture programs;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 166

(House Bill 72)

AN ACT concerning

Natural Resources – Aquaculture Coordinating Council – Reporting Date

FOR the purpose of altering the date by which the Aquaculture Coordinating Council must make certain proposals and recommendations to the Governor and certain legislative committees each year; and generally relating to the Aquaculture Coordinating Council.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–11A–03.2(a)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–11A–03.2(c)(1)(i)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

4–11A–03.2.

(a) There is an Aquaculture Coordinating Council.

(c) (1) The Coordinating Council shall:

(i) Formulate and make proposals to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before **[**October 1**] JUNE 30** of each year for advancing Maryland aquaculture, including recommendations for a fee structure on aquaculture operations in order to reduce State expenditures on aquaculture programs;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 167

(Senate Bill 25)

AN ACT concerning

Vehicle Laws – Title and Registration – Transfer to Surviving Spouse

FOR the purpose of establishing that when the interest in a vehicle of one joint owner passes by operation of law to another joint owner who is the surviving spouse, the surviving spouse is not required to apply for a new certificate of title or submit a certain certificate of title to the Motor Vehicle Administration until a certain time; authorizing a surviving spouse to drive a certain vehicle and allow the vehicle to be driven on a highway until a certain time without applying for a certain registration if the interest in the vehicle passes to the surviving spouse through joint ownership; prohibiting the Administration, on the death of a joint owner of a vehicle, from charging a fee to another joint owner who is the surviving spouse for the issuance of a new certificate of title for the vehicle; and generally relating to the title and registration of a vehicle transferred to a surviving spouse.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–114, 13–504, 13–801, and 13–802
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Transportation

Section 13–805
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Transportation

13–114.

(a) Except as otherwise provided in this section, if the interest of an owner in a vehicle for which a certificate of title has been issued passes to another person other than by voluntary transfer, the transferee shall present to the Administration the last certificate of title for the vehicle, if available.

(b) Except as otherwise provided in this section, if the interest of an owner in a vehicle for which a certificate of title has been issued passes to another person other than by voluntary transfer, the transferee shall apply for a new certificate of title.

(c) (1) The application for a new certificate of title under subsection (b) of this section shall be accompanied by such instruments or documents of authority or certified copies of them as are sufficient in law or required by law to evidence or effect a transfer of title or interest in or to chattels in such case.

(2) A written assignment of title or interest is not required if the prior owner's title or interest has passed to the transferee as a result of a judicial decree, order, or proceeding.

(d) (1) If the interest of an owner in a vehicle for which a certificate of title has been issued passes to a legatee or distributee as a result of testamentary disposition or intestate devolution:

(i) An application for a new certificate of title need not be made until the expiration of the last annual registration in the name of the deceased owner; and

(ii) The certificate of title need not be submitted to the Administration until the application for a new certificate of title is made.

(2) If title is assigned properly by the personal representative of the deceased owner, a certificate of letters testamentary or of administration issued by a court of competent jurisdiction in this State is sufficient authority for the Administration to transfer the title of the vehicle of a deceased owner.

(e) (1) The Administration may transfer on its records the ownership of a vehicle that has been repossessed by a secured party, if the secured party submits to the Administration a certification that states:

(i) That the secured party has a security interest in the vehicle;

(ii) That, on the basis of the security agreement or other lawful basis, the secured party has a right to the possession of and title to the vehicle;

(iii) That the secured party has possession of the vehicle; and

(iv) Any other information that the Administration requires.

(2) On submission of the certification to it, the Administration may issue a new certificate of title if it is satisfied that the secured party is entitled to one.

(F) IN THE CASE OF A VEHICLE FOR WHICH A CERTIFICATE OF TITLE HAS BEEN ISSUED TO MARRIED INDIVIDUALS AS JOINT OWNERS, IF THE INTEREST IN THE VEHICLE OF ONE OF THE JOINT OWNERS WHO HAS DIED PASSES BY OPERATION OF LAW TO THE SURVIVING SPOUSE:

(1) AN APPLICATION FOR A NEW CERTIFICATE OF TITLE NEED NOT BE MADE UNTIL THE EXPIRATION OF THE LAST REGISTRATION IN THE NAME OF THE JOINT OWNERS; AND

(2) THE CERTIFICATE OF TITLE NEED NOT BE SUBMITTED TO THE ADMINISTRATION UNTIL THE APPLICATION FOR A NEW CERTIFICATE OF TITLE IS MADE.

13–504.

(a) Except as otherwise provided in this section, if the title or interest of an owner in a registered vehicle passes to another person other than by voluntary transfer:

(1) The registration of the vehicle expires; and

(2) The vehicle may not be driven on a highway until the person entitled to possession of the vehicle applies for and obtains a new registration of the vehicle.

(b) However, the person entitled to possession of the vehicle, or his authorized representative, may drive the vehicle on highways in this State for a distance of not more than 200 miles, but only from the place that the person or his authorized representative obtained possession of the vehicle to the person's place of business, residence, or other place where the vehicle is to be kept.

(c) During the operation of a vehicle described in subsection (b) of this section, the registration plates issued to the former owner may be displayed on the vehicle.

(d) After the operation of a vehicle described in subsection (b) of this section is completed or, even before this operation is completed, on request of the former owner or the Administration, the person who obtained possession of the vehicle shall return its registration plates to the former owner or to the Administration.

(e) After 24 hours of the earlier of the request or the completion of the operation described in subsection (b) of this section, no person, other than the person to whom the registration plates originally were issued, may have the registration plates in his possession, whether or not they are in use.

(f) If the title or interest of an owner in a registered vehicle passes to a legatee or distributee as a result of testamentary disposition or intestate devolution, the personal representative, legatee, or distributee may drive the vehicle and permit it to be driven on the highways, without applying for a new registration, until the expiration of the last annual registration in the name of the deceased owner.

(G) IF THE INTEREST IN A REGISTERED VEHICLE OF A JOINT OWNER WHO HAS DIED PASSES TO THE SURVIVING SPOUSE THROUGH JOINT OWNERSHIP, THE SURVIVING SPOUSE MAY DRIVE THE VEHICLE AND ALLOW IT TO BE DRIVEN ON A HIGHWAY, WITHOUT APPLYING FOR A NEW REGISTRATION, UNTIL THE EXPIRATION OF THE LAST REGISTRATION IN THE NAME OF THE JOINT OWNERS.

13–801.

[The**] ANY APPLICABLE** fees specified in this part for a certificate of title shall be paid to the Administration before issuance of the certificate.

13–802.

(a) Except as provided in subsection (b) of this section and § 13–805 of this subtitle, the fee for each certificate of title issued under this title is $100.

(b) (1) For fiscal years 2012 through 2014 only, the fee for each certificate of title issued for a rental vehicle is $50.

(2) The fee for each certificate of title issued for a motor scooter or a moped is $20.

(3) ON THE DEATH OF A JOINT OWNER OF A VEHICLE, THE ADMINISTRATION MAY NOT CHARGE A FEE FOR A NEW CERTIFICATE OF TITLE

ISSUED FOR THE VEHICLE TO ANOTHER JOINT OWNER WHO IS THE SURVIVING SPOUSE.

13–805.

For the issuance of a duplicate certificate of title, issued under § 13–111 of this title to replace a lost, stolen, or damaged certificate of title, the fee shall be established by the Administration.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *July* 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 168

(Senate Bill 32)

AN ACT concerning

Alcoholic Beverages – Brewery License – On–Premises Consumption

FOR the purpose of authorizing brewery licensees to sell beer to certain persons for on–premises consumption under certain circumstances; requiring a certain local licensing board to grant an on–site consumption permit to an applicant that holds certain licenses; providing that an on–site consumption permit entitles the holder to sell beer brewed at the brewery for on–premises consumption to persons that have attained the legal drinking age; providing that before a local licensing board that does not issue a Class D beer license may grant a permit, the local licensing board shall establish an equivalent license and require that the applicant obtain that license; limiting the total amount of beer that may be sold annually by a licensee under this Act; authorizing a local licensing board to charge a certain fee and require that a certain person comply with certain alcohol awareness training requirements; and generally relating to alcoholic beverages in the State.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–206
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

2–206.

(a) A Class 5 manufacturer's license:

(1) Is a brewery license; and

(2) Authorizes the holder to:

(i) Establish and operate in this State a plant for brewing and bottling malt beverages at the location described in the license;

(ii) Import beer from holders of nonresident dealer's permits; **[**and**]**

(iii) Sell and deliver beer to any wholesale licensee in this State, or person outside of this State, authorized to acquire it**; AND**

(IV) ~~SELL~~ SUBJECT TO SUBSECTION (B)(2) OF THIS SECTION, SELL BEER BREWED AT THE LOCATION DESCRIBED IN THE LICENSE FOR ON–PREMISES CONSUMPTION.

(b) **(1)** A licensee may:

[(1)**]** **(I)** Serve to a person of legal drinking age who participates in a guided tour of the facility or attends a scheduled promotional event or other organized activity at the licensed premises, not more than six samples of beer brewed at the licensed premises, with each sample consisting of not more than 3 ounces from a single style of beer; ~~[~~and~~]~~

[(2)**]** **(II)** Sell beer brewed at the brewery for off–premises consumption to anyone who participates in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the licensed premises, subject to the following restrictions:

[(i)**]** **1.** The purchase is limited to 288 ounces of beer per person; ~~[~~and~~]~~

[(ii)**]** **2.** The person has attained the legal drinking age~~; AND~~

~~(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SELL BEER BREWED AT THE BREWERY FOR ON–PREMISES CONSUMPTION TO PERSONS THAT HAVE ATTAINED THE LEGAL DRINKING AGE.~~

~~(2) THE TOTAL AMOUNT OF BEER SOLD ANNUALLY UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION MAY NOT EXCEED 6,000 BARRELS ANNUALLY~~.

(2) (I) A LOCAL LICENSING BOARD SHALL GRANT AN ON–SITE CONSUMPTION PERMIT TO AN APPLICANT THAT HOLDS A CLASS 5 MANUFACTURER'S LICENSE AND, SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, A CLASS D BEER LICENSE.

(II) AN ON–SITE CONSUMPTION PERMIT ENTITLES THE HOLDER TO SELL BEER BREWED AT THE BREWERY FOR ON–PREMISES CONSUMPTION TO PERSONS THAT HAVE ATTAINED THE LEGAL DRINKING AGE.

(III) BEFORE A LOCAL LICENSING BOARD THAT DOES NOT ISSUE A CLASS D BEER LICENSE MAY GRANT AN ON–SITE CONSUMPTION PERMIT, THE LOCAL LICENSING BOARD SHALL:

1. ESTABLISH AN EQUIVALENT LICENSE; AND

2. REQUIRE THAT THE APPLICANT OBTAIN THAT LICENSE.

(IV) THE TOTAL AMOUNT OF BEER SOLD EACH YEAR FOR ON–PREMISES CONSUMPTION UNDER THIS PARAGRAPH MAY NOT EXCEED 500 BARRELS.

(V) A LOCAL LICENSING BOARD MAY:

1. CHARGE A FEE FOR GRANTING AN ON–SITE CONSUMPTION PERMIT; AND

2. REQUIRE THAT THE HOLDER OF THE PERMIT OR AN EMPLOYEE DESIGNATED BY THE HOLDER COMPLY WITH THE ALCOHOL AWARENESS TRAINING REQUIREMENTS UNDER § 13–101 OF THIS ARTICLE.

(c) (1) The Office of the Comptroller may issue a special brewery promotional event permit to a holder of a Class 5 manufacturer's license.

(2) The permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may:

(i) Provide samples of not more than 3 fluid ounces per brand to consumers; and

(ii) Sell beer produced by the holder to persons who participate in the event.

(3) The beer at the event shall be sold by the glass and for consumption on the premises only.

(4) A holder of a Class 5 manufacturer's license may not be issued more than 12 permits in a calendar year.

(5) A single promotional event may not exceed 3 consecutive days.

(6) The permit fee is $25 per event.

(7) To obtain a permit, a person, at least 15 days before the event, shall file with the Office of the Comptroller an application that the Office provides.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 169

(House Bill 4)

AN ACT concerning

Alcoholic Beverages – Brewery License – On–Premises Consumption

FOR the purpose of authorizing brewery licensees to sell beer to certain persons for on–premises consumption under certain circumstances; requiring a certain local licensing board to grant an on–site consumption permit to an applicant that holds certain licenses; providing that an on–site consumption permit entitles the holder to sell beer brewed at the brewery for on–premises consumption to persons that have attained the legal drinking age; providing that before a local licensing board that does not issue a Class D beer license may grant a permit, the local licensing board shall establish an equivalent license and require that the applicant obtain that license; limiting the total amount of beer that may be sold annually by a licensee under this Act; authorizing a local licensing board to charge a certain fee and require that a certain person comply with certain alcohol awareness training requirements; and generally relating to alcoholic beverages in the State.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages

Section 2–206
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

2–206.

(a) A Class 5 manufacturer's license:

(1) Is a brewery license; and

(2) Authorizes the holder to:

(i) Establish and operate in this State a plant for brewing and bottling malt beverages at the location described in the license;

(ii) Import beer from holders of nonresident dealer's permits; **[**and**]**

(iii) Sell and deliver beer to any wholesale licensee in this State, or person outside of this State, authorized to acquire it**; AND**

(IV) ~~SELL~~ SUBJECT TO SUBSECTION (B)(2) OF THIS SECTION, SELL BEER BREWED AT THE LOCATION DESCRIBED IN THE LICENSE FOR ON–PREMISES CONSUMPTION.

(b) **(1)** A licensee may:

[(1)**]** **(I)** Serve to a person of legal drinking age who participates in a guided tour of the facility or attends a scheduled promotional event or other organized activity at the licensed premises, not more than six samples of beer brewed at the licensed premises, with each sample consisting of not more than 3 ounces from a single style of beer; ~~**[**and**]**~~

[(2)**]** **(II)** Sell beer brewed at the brewery for off–premises consumption to anyone who participates in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the licensed premises, subject to the following restrictions:

[(i)**]** **1.** The purchase is limited to 288 ounces of beer per person; ~~**[**and**]**~~

[(ii)] **2.** The person has attained the legal drinking age~~; AND~~

~~(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SELL BEER BREWED AT THE BREWERY FOR ON–PREMISES CONSUMPTION TO PERSONS THAT HAVE ATTAINED THE LEGAL DRINKING AGE.~~

~~(2) THE TOTAL AMOUNT OF BEER SOLD ANNUALLY UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION MAY NOT EXCEED 6,000 BARRELS ANNUALLY~~.

(2) (I) A LOCAL LICENSING BOARD SHALL GRANT AN ON–SITE CONSUMPTION PERMIT TO AN APPLICANT THAT HOLDS A CLASS 5 MANUFACTURER'S LICENSE AND, SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, A CLASS D BEER LICENSE.

(II) AN ON–SITE CONSUMPTION PERMIT ENTITLES THE HOLDER TO SELL BEER BREWED AT THE BREWERY FOR ON–PREMISES CONSUMPTION TO PERSONS THAT HAVE ATTAINED THE LEGAL DRINKING AGE.

(III) BEFORE A LOCAL LICENSING BOARD THAT DOES NOT ISSUE A CLASS D BEER LICENSE MAY GRANT AN ON–SITE CONSUMPTION PERMIT, THE LOCAL LICENSING BOARD SHALL:

1. ESTABLISH AN EQUIVALENT LICENSE; AND

2. REQUIRE THAT THE APPLICANT OBTAIN THAT LICENSE.

(IV) THE TOTAL AMOUNT OF BEER SOLD EACH YEAR FOR ON–PREMISES CONSUMPTION UNDER THIS PARAGRAPH MAY NOT EXCEED 500 BARRELS.

(V) A LOCAL LICENSING BOARD MAY:

1. CHARGE A FEE FOR GRANTING AN ON–SITE CONSUMPTION PERMIT; AND

2. REQUIRE THAT THE HOLDER OF THE PERMIT OR AN EMPLOYEE DESIGNATED BY THE HOLDER COMPLY WITH THE ALCOHOL AWARENESS TRAINING REQUIREMENTS UNDER § 13–101 OF THIS ARTICLE.

(c) (1) The Office of the Comptroller may issue a special brewery promotional event permit to a holder of a Class 5 manufacturer's license.

(2) The permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may:

(i) Provide samples of not more than 3 fluid ounces per brand to consumers; and

(ii) Sell beer produced by the holder to persons who participate in the event.

(3) The beer at the event shall be sold by the glass and for consumption on the premises only.

(4) A holder of a Class 5 manufacturer's license may not be issued more than 12 permits in a calendar year.

(5) A single promotional event may not exceed 3 consecutive days.

(6) The permit fee is $25 per event.

(7) To obtain a permit, a person, at least 15 days before the event, shall file with the Office of the Comptroller an application that the Office provides.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 170

(Senate Bill 39)

AN ACT concerning

Motor Vehicle Registration – Special Vintage Reproduction Registration Plate

FOR the purpose of requiring the Motor Vehicle Administration to develop and make available a specially designed vintage reproduction registration plate; prescribing who may apply for and the classes of vehicles eligible for the registration plate; providing the manner in which fees will be established, collected, and distributed in connection with the registration plate; requiring that the registration plate be available for sale for a certain time and resemble a certain registration plate issued by the State; providing for a delayed effective date; and generally relating to the issuance of special registration plates.

BY adding to
Article – Transportation
Section 13–619.3
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Transportation

13–619.3.

(A) THE ADMINISTRATION SHALL DEVELOP AND MAKE AVAILABLE FOR QUALIFYING VEHICLES A SPECIALLY DESIGNED VINTAGE REPRODUCTION REGISTRATION PLATE.

(B) THE OWNER OF A VEHICLE, OR A LESSEE OF THE VEHICLE UNDER A LEASE NOT INTENDED AS SECURITY, OR A DIRECTOR, AN OFFICER, AN EMPLOYEE, OR A PARTNER OF A BUSINESS ENTITY THAT OWNS THE VEHICLE CONSIDERED ELIGIBLE BY THE ADMINISTRATION MAY APPLY TO THE ADMINISTRATION FOR A REGISTRATION PLATE UNDER THIS SECTION IF THE VEHICLE IS INCLUDED IN ONE OF THE FOLLOWING CLASSES:

(1) A CLASS A (PASSENGER) VEHICLE;

(2) A CLASS E (TRUCK) VEHICLE WITH A MANUFACTURER'S RATED CAPACITY OF 1 TON OR LESS;

(3) A CLASS L (HISTORIC) VEHICLE;

(4) A CLASS M (MULTIPURPOSE) VEHICLE; OR

(5) A CLASS N (STREET ROD) VEHICLE.

(C) IN ADDITION TO THE ANNUAL REGISTRATION FEE OTHERWISE REQUIRED UNDER THIS TITLE, AN OWNER OF A VEHICLE ASSIGNED A REGISTRATION PLATE UNDER THIS SECTION SHALL PAY WHEN INITIALLY ISSUED THE REGISTRATION PLATE AND EACH TIME THE REGISTRATION PLATE IS RENEWED:

(1) A FEE SET BY THE ADMINISTRATION TO RECOVER THE ADMINISTRATION'S COSTS UNDER THIS SECTION; AND

(2) A FEE SET BY THE ADMINISTRATION TO BE CREDITED TO THE GASOLINE AND MOTOR VEHICLE REVENUE ACCOUNT FOR DISTRIBUTION UNDER § 8–403 OR § 8–404 OF THIS ARTICLE.

(D) THE SPECIAL REGISTRATION PLATE ISSUED UNDER THIS SECTION SHALL:

(1) BE AVAILABLE FOR SALE FOR 1 YEAR FROM THE DATE OF INITIAL ISSUANCE; AND

(2) RESEMBLE THE BLACK LETTERING ON YELLOW BACKGROUND REGISTRATION PLATE ISSUED BY THE STATE FOR DISPLAY ON A MOTOR VEHICLE IN 1910.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

Approved by the Governor, May 2, 2013.

Chapter 171

(Senate Bill 53)

AN ACT concerning

Department of Agriculture – Administrative Review of Contested Cases

FOR the purpose of repealing certain provisions of law relating to the Board of Review of the Department of Agriculture, including provisions requiring persons in certain contested cases to exhaust an avenue of appeal to the Board of Review before pursuing review in court; making certain conforming changes; and generally relating to the administrative review of contested cases at the Department of Agriculture.

BY repealing
Article – Agriculture
Section 2–401 through 2–405 and the subtitle "Subtitle 4. Board of Review of Department of Agriculture"
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–103(h) and 2–106

Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 2–401 through 2–405 and the subtitle "Subtitle 4. Board of Review of Department of Agriculture" of Article – Agriculture of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Agriculture

2–103.

(h) The Secretary may exercise or perform any power, duty, responsibility, or function which any position or unit within the Department may exercise or perform, except those vested by law in the **[**board of review of the Department, and the**]** Maryland Agricultural Commission. The Secretary has general supervision, direction, and control of the provisions of this article and generally of all matters in any way affecting or relating to the fostering, protection, and development of the agricultural interests of the State.

2–106.

(a) The following positions and units are included within the Department:

(1) The Maryland Agricultural Fair Board;

(2) The Chief of Weights and Measures;

(3) The State Chemist;

(4) The State Veterinarian;

(5) The State Board of Veterinary Medical Examiners;

(6) The State Soil Conservation Committee;

[(7) The Board of Review of the Department of Agriculture;**]**

[(8)**] (7)** The Maryland Agricultural Commission;

[(9)**] (8)** The Maryland Horse Industry Board; and

[(10)**] (9)** The Maryland Winery and Grape Growers' Advisory Board.

(b) The Secretary shall appoint the State Chemist, State Veterinarian, and Chief of Weights and Measures.

(c) The Department also includes any other position or unit which is declared within the Department pursuant to law.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 172

(Senate Bill 54)

AN ACT concerning

Maryland Higher Education Commission – Scholarship Funds – Technical Alterations

FOR the purpose of amending provisions of the Educational Excellence Fund, the Edward T. Conroy Scholarship Fund, the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund, and the Workforce Shortage Student Assistance Grant Fund to require each of the funds to be special, nonlapsing funds that are administered by the Maryland Higher Education Commission, held by the State Treasurer, and accounted for by the Comptroller; repealing requirements for the funds to be held in nonbudgeted accounts; defining certain terms; making technical changes; and generally relating to technical alterations to certain scholarship fund provisions.

BY repealing and reenacting, with amendments,
Article – Education
Section 15–106.7(a), 18–310, 18–601(a) and (h), 18–604(k), and 18–708(a) and (o)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 18–601(b) and (c), 18–604(b), and 18–708(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

15–106.7.

(a) In this section, "State or local public safety employee" has the meaning stated in § **[**18–601(a)(4)**]** **18–601(A)(5)** of this article.

18–310.

(a) Funds for the Delegate Howard P. Rawlings Educational Excellence Award Program shall be as provided in the annual budget of the Commission by the Governor.

(b) **(1) IN THIS SECTION, "FUND" MEANS THE EDUCATIONAL EXCELLENCE FUND.**

[(1)**]** **(2)** There is an Educational Excellence Fund in the Commission.

(3) THE COMMISSION SHALL ADMINISTER THE FUND.

(4) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(5) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

[(2)**]** **(6)** The Commission:

(i) May accept any gift or grant from any person or corporation for the **[**Educational Excellence**]** Fund;

(ii) Shall use any gift or grant that it receives to support an early intervention program to identify students eligible for the Delegate Howard P. Rawlings Educational Excellence Award Program and prepare them for college; and

(iii) Shall deposit any gift or grant that it receives for the Fund with the State Treasurer **[**in a nonbudgeted account**]** for use only in the early intervention program.

[(3)**]** **(7)** (i) At the end of the fiscal year, the Commission shall prepare an annual report on the **[**Educational Excellence**]** Fund that includes an accounting of all financial receipts and expenditures to and from the Fund.

(ii) The Commission shall submit a copy of the report to the General Assembly as provided under § 2–1246 of the State Government Article.

18–601.

(a) (1) In this section the following words have the meanings indicated.

(2) "Disabled public safety employee" means a State or local public safety employee who sustains an injury in the line of duty that:

(i) Precludes the individual from continuing to serve or be employed as a State or local public safety employee; and

(ii) In the case of a volunteer member of a fire department or ambulance or rescue company or squad, precludes the member from continuing to be employed in the nonpublic safety occupation in which the member is engaged at the time of the injury.

(3) "FUND" MEANS THE EDWARD T. CONROY SCHOLARSHIP FUND.

[(3)**] (4)** "Surviving spouse" means a person who has not remarried.

[(4)**] (5)** "State or local public safety employee" means a person who is:

(i) A career or volunteer member of a:

1. Fire department;

2. Ambulance company or squad; or

3. Rescue company or squad;

(ii) A law enforcement officer;

(iii) A correctional officer; or

(iv) A member of the Maryland National Guard who was a resident of this State at the time of death.

[(5)**] (6)** "Victim of the September 11, 2001, terrorist attacks" means a Maryland resident who was killed as a result of the attacks on the World Trade Center in New York City, the attack on the Pentagon in Virginia, or the crash of United Airlines Flight 93 in Pennsylvania.

(b) There is a program of scholarships that are awarded by eligible postsecondary institutions under this section.

(c) The Program is the Edward T. Conroy Memorial Scholarship Program.

(h) **(1) THERE IS AN EDWARD T. CONROY SCHOLARSHIP FUND.**

(2) THE COMMISSION SHALL ADMINISTER THE FUND.

(3) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(4) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(5) The Commission:

[(1)**]** **(I)** May accept any gift or grant from any person for the **[**Edward T. Conroy Scholarship**]** Fund;

[(2)**]** **(II)** Shall use any gift or grant that it receives for a scholarship from the Program; and

[(3)**]** **(III)** Shall deposit any gift or grant that it receives for the Program with the State Treasurer **[**in a nonbudgeted account**]**.

18–604.

(b) There is a Veterans of the Afghanistan and Iraq Conflicts Scholarship.

(k) (1) Funds for the Veterans of the Afghanistan and Iraq Conflicts Scholarship shall be as provided in the annual budget of the Commission by the Governor.

(2) **(I) IN THIS SUBSECTION, "FUND" MEANS THE VETERANS OF THE AFGHANISTAN AND IRAQ CONFLICTS SCHOLARSHIP FUND.**

[(i)**]** **(II)** There is a Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund in the Commission.

(III) THE COMMISSION SHALL ADMINISTER THE FUND.

(IV) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(V) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

[(ii)**] (VI)** The Commission:

1. May accept any gift or grant from any person or corporation for the **[**Veterans of the Afghanistan and Iraq Conflicts Scholarship**]** Fund;

2. Shall use any gift or grant that it receives for a scholarship from the **[**Veterans of the Afghanistan and Iraq Conflicts Scholarship**]** Fund; and

3. Shall deposit any gift or grant that it receives for the **[**Veterans of the Afghanistan and Iraq Conflicts Scholarship**]** Fund with the State Treasurer **[**in a nonbudgeted account**]**.

(3) (i) At the end of the fiscal year, the Commission shall prepare an annual report on the **[**Veterans of the Afghanistan and Iraq Conflicts Scholarship**]** Fund that includes an accounting of all financial receipts and expenditures to and from the Fund.

(ii) The Commission shall submit a copy of the report to the General Assembly as provided under § 2–1246 of the State Government Article.

18–708.

(a) (1) In this section the following words have the meanings indicated.

(2) "Advisory Council" means the Advisory Council on Workforce Shortage.

(3) "Eligible institution" means a public or private nonprofit institution of higher education in this State that possesses a certificate of approval from the Commission.

(4) "FUND" MEANS THE WORKFORCE SHORTAGE STUDENT ASSISTANCE GRANT FUND.

[(4)**] (5)** "Grant" means the Workforce Shortage Student Assistance grant.

[(5)**] (6)** "Public good or benefit" means service to low–income or underserved residents or areas of the State in an occupation in the public sector or in an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code of 1986.

(b) There is a program of Workforce Shortage Student Assistance grants under this section for students who pledge to work in fields of critical shortage in the State on completion of their studies.

(o) (1) There is a Workforce Shortage Student Assistance Grant Fund in the Commission.

(2) THE COMMISSION SHALL ADMINISTER THE FUND.

(3) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(4) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

[(2)**] (5)** The Commission:

(i) May accept any gift or grant from any person or corporation for the **[**Workforce Shortage Student Assistance Grant**]** Fund;

(ii) Shall use any gift or grant that it receives for a grant award from the Fund; and

(iii) Shall deposit any gift or grant that it receives for the Fund with the State Treasurer **[**in a nonbudgeted account**]**.

~~(3)~~ **(6)** (i) At the end of the fiscal year, the Commission shall prepare an annual report on the **[**Workforce Shortage Student Assistance Grant**]** Fund that includes an accounting of all financial receipts and expenditures to and from the Fund.

(ii) The Commission shall submit a copy of the report to the General Assembly as provided under § 2–1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 173

(Senate Bill 59)

AN ACT concerning

Natural Resources – Fish and Fisheries

FOR the purpose of repealing a certain exemption for certain veterans' hospital patients from the requirement to obtain an angler's license under certain circumstances; repealing a certain provision of law that establishes the date by which the Department of Natural Resources annually is required to adopt regulations governing open seasons to catch certain species in nontidal waters; repealing a certain provision of law that lists certain nontidal species for which the Department is required to establish open seasons; repealing certain provisions of law that prohibit a person from using, and authorize a person to use, certain devices while catching fish under certain circumstances; narrowing a certain restriction on the number of hooks that may be used to catch fish to apply only to tidal fish licensees; repealing a certain provision of law that prohibits the possession of peeler crabs of a certain size in an amount that exceeds the established bycatch limits; repealing the requirement that the Department use the minimum representative number of containers necessary when determining the peeler crab bycatch; repealing a certain bycatch limit for soft crabs; repealing certain timeframes under which the Department is required to publish notice of and hold a public hearing under certain circumstances regarding lobster harvest regulations; repealing a requirement that certain notices related to lobster harvest regulations be published in certain newspapers; altering the information that a person is required to provide on an application for a commercial oyster license; altering the residency requirement that a person is required to fulfill to be eligible for a commercial oyster or clam license; authorizing the Department to adopt regulations establishing the procedures for selling oysters and clams; repealing the prohibition against the sale or purchase of oysters or clams in locations other than a buying station; repealing certain procedures that a buyer of oysters or clams at a buying station is required to follow; repealing a certain provision of law that authorizes a person to buy soft–shell clams anywhere for certain purposes and requires the seller of the soft–shell clams to pay a certain tax; repealing a certain provision of law that establishes certain limitations on and authorizations for the use of patent tongs and hand tongs in certain areas of the State; repealing a certain provision of law prohibiting the harvest of oysters by dredge subject to certain exceptions; repealing certain standards for containers for the measurement of oysters sold in the State and authorizing the Department to adopt regulations governing the size, type, and use of oyster containers used to measure oysters harvested or sold in the State; making certain technical corrections; making certain stylistic changes; and generally relating to fish and fisheries.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–217(e), 4–603, 4–617, 4–710(h) and (i), 4–809, 4–901, 4–1004, 4–1007, 4–1012, and 4–1015.1(c)

Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing
Article – Natural Resources
Section 4–619, 4–620, 4–710(g), 4–1011, and 4–1018(a)
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to
Article – Natural Resources
Section 4–1018(a)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

4–217.

(e) An angler's license is not required of the following:

(1) **[**A convalescent patient of a veterans' hospital hospitalized for a service–connected disability who fishes in waters of the State if the patient secures a permit issued by a special service officer of the American Red Cross under authority granted by the Department;

(2)**]** A patient who is under treatment by a State–approved mental health facility and an individual who attends or resides in a State–approved retardation facility; or

[(3)**] (2)** A caregiver, family member, or designee of a mental health care facility or private group home of a patient who is under treatment by a State–approved mental health facility, if:

(i) The administrator of the mental health care facility, or treating physician or psychologist provides the Department with a letter stating that the caregiver or family member is the primary caretaker of the patient; or

(ii) The individual accompanying the patient carries a copy of the letter described under item (i) of this paragraph, or a professional license or certificate of a health care professional involved in the care of the patient.

4–603.

Pursuant to § 4–602 of this subtitle, the Department shall establish **[**and publish by October 25 each year**]** open seasons **[**to catch the following**] FOR CATCHING SPECIES OF** game and freshwater fish **[**for the ensuing year:

(1) Largemouth bass and smallmouth bass;

(2) Pike and pickerel;

(3) Walleye;

(4) Rockfish, also known as striped bass;

(5) Brook trout, brown trout, and rainbow trout;

(6) American shad, hickory shad, and herring;

(7) Suckers, catfish, carp, eel, and gudgeon;

(8) All species of sunfish, including bluegill;

(9) Rock bass, also known as redeye;

(10) Fallfish;

(11) Crappie; and

(12) White perch and yellow perch**] IN NONTIDAL WATERS**.

4–617.

(a) **[**Except when fishing through ice, a person may not angle with more than three rods and lines with two hooks to each line. Artificial lures or plugs with multiple or gang hooks are considered one unit.

(b)**]** A slat basket, commonly known as the Chesapeake Bay eel pot, may not be used to catch eels.

[(c)**] (B)** A State resident who has secured a resident angler's license may fish by use of a dip net only from January 1 through April 15 only in the following nontidal waters:

(1) The Susquehanna River in Cecil and Harford counties;

(2) In Allegany and Washington counties; and

(3) The Monocacy and Potomac rivers in Carroll and Frederick counties. However, dip nets may not be used within 50 yards of the mouth of any tributary or the breast of any dam of these rivers. A dip net may not be used in any of the waters of the State which are stocked with trout.

[(d)**] (C)** (1) Only a person with a resident angler's license may use a bush–bob or bank pole;

(2) Bush–bobs or bank poles not exceeding a total of 25 in all and not exceeding one hook to a pole or bob may be used only in the waters of the Potomac or Monocacy River within Carroll, Washington, and Frederick counties.

(3) Bush–bobs or bank poles may not be used on any streams stocked with trout.

(4) A bush–bob or bank pole which has been baited with scale bait or live bait may not be used to catch suckers, catfish, carp, eels, gudgeons and every species of sunfish, including bluegills and rock bass, commonly known as redeye.

(5) A bush–bob or bank pole may not be used except between sunset and sunrise.

[(e)**] (D)** The Department may regulate, supervise, and control ice–fishing.

[(f)**] (E)** White shad, hickory shad, and herring may be caught or taken only by angling, unless otherwise provided.

[(g)**] (F)** A person may catch large or small mouth black bass from nontidal waters of the State only by angling. An artificial lure is legal.

[4–619.

Except as provided in § 4–620 of this subtitle, a person may not use or attempt to use a gig, gig iron, net, seine, fish pot, or other fishing rig. If any person is found in possession of the devices prohibited by this section while catching fish, it is prima facie evidence of a violation of this section.**]**

[4–620.

(a) Under supervision, rule or regulation, and control of the Department, a person may catch carp with bow and arrow and by gig.

(b) (1) Except as provided in paragraph (2) of this subsection, a dip net or seine not more than 6 feet in length nor more than 4 feet in depth may be used to catch bait fish.

(2) A dip net or seine may not be used within 50 yards of the mouth of any river or tributary or the base of any dam.

(c) Fish may not be snagged by means of hooks.**]**

4–710.

[(g) A person may take or shoot carp, garfish, skate, bullfish, shark, oyster toads, swelling toads, sting rays, or any other ray fish with bow and arrow, except a crossbow, and snag these fish by means of hooks in the tidal waters of the State under the supervision, regulation, and control of the Department. This subsection only applies to the fish referred to in it.**]**

[(h)**] (G)** A person may not catch or attempt to catch finfish by the use of any stationary fishing gear, or set an anchor or mooring buoy, or in any way obstruct the normal taking of finfish by drift net from December 1 through April 1.

This subsection applies only to waters more than 50 feet in depth in the Chesapeake Bay south of the William Preston Lane, Jr., Memorial Bridge and is not applicable to any Chesapeake Bay tributaries. This provision does not apply to any designated anchorage in existence on July 1, 1975. The Department has the authority to permit exceptions to this section by regulations when it can be shown that the obstruction will not interfere with a useable fishing reach.

[(i)**] (H)** (1) Except in State waters in the Atlantic Ocean, a **[**person**] TIDAL FISH LICENSEE** may not use more than 2 hooks or 2 sets of hooks for each rod or line.

(2) For the purposes of this subsection, artificial lures or plugs with multiple or gang hooks are considered 1 set of hooks.

4–809.

(a) **[**(1) Except as provided in paragraph (2) of this subsection, a person may not catch or possess peeler crabs measuring less than 3 inches across the shell from tip to tip of spike.

(2) A person may possess a bycatch of peeler crabs measuring less than 3 inches across the shell from tip to tip of spike if the bycatch is not greater than:

(i) 30 per bushel; or

(ii) 60 per float.

(3) In determining the number of peelers measuring less than 3 inches across the shell from tip to tip of the spike, the Department shall select the minimum number of bushels or floats necessary to be representative of the person's catch.

(b)**]** (1) Except as provided in **REGULATIONS ADOPTED UNDER** paragraph (2) of this subsection, a person may not catch or possess soft crabs measuring less than three and one–half inches across the shell from tip to tip of the spike.

(2) (i) **[**This paragraph applies until the Department adopts regulations under paragraph (3) of this subsection.

(ii) A person may possess a bycatch of soft crabs measuring less than three and one–half inches across the shell from tip to tip of the spike if the bycatch is not greater than one undersized soft crab per dozen soft crabs possessed.

(3) (i)**]** The Department shall adopt regulations establishing and governing a permissible bycatch for soft crabs under this subsection.

(ii) The regulations that the Department adopts under this paragraph may not be more restrictive than the applicable restrictions on the permissible bycatch for hard crabs and peeler crabs.

[(c)**] (B)** In the waters of Worcester County, a person may not catch, possess, or keep in floats any fat crabs, or any crab known as snot crab, green crab, or buckram crab.

[(d)**] (C)** The minimum size of crabs does not apply to mature female crabs, identified by the rounded apron.

[(e)**] (D)** The **[**provisions of subsection (a) of this section do**] MINIMUM SIZE FOR PEELER CRABS SET BY THE DEPARTMENT IN REGULATION DOES** not apply to crabs imported into Maryland during the closed season for catching crabs if the person possessing the imported crabs has a certificate of origin.

[(f)**] (E)** Once taken, peelers shall be kept separate from other crabs.

4–901.

(a) The Department may adopt rules and regulations to:

(1) Restrict the possession, landing, selling, or transporting of any lobster or lobster parts;

(2) Establish minimum size limits for lobsters.

(b) The Department shall publish a notice of **[**its**]** **ANY** **[**proposed**]** lobster harvest regulations **PROPOSED UNDER THIS SECTION**, and of any subsequent amendments **TO THE REGULATIONS**, **[**at least 30 days before the effective date of the proposal**]** and shall hold a public hearing on the proposal **[**at least 15 days before the effective date**]** unless a public hearing on a substantially similar proposal has been conducted in the State by a federal management authority with notice advertised by the Department as required by this section. The notice shall include the time and place of any hearing **[**and shall be published in at least one newspaper of general circulation in the State and at least one newspaper of general circulation in Worcester County**]**.

4–1004.

(a) (1) A person may not catch oysters or clams for commercial purposes in the waters of the State unless the person first obtains a license, but a resident may catch up to 1 bushel each of oysters and clams a day for **[**his**]** **THE PERSON'S** own use and consumption without a license, in places and at times prescribed by rule or regulation of the Department. Notwithstanding the preceding sentence, a nonresident may catch in the tidal bays of Worcester County up to 1 bushel of hard clams per day for **[**his**]** **THE NONRESIDENT'S** own use and consumption.

(2) The Department shall require an applicant for an oyster license to **[**indicate whether the applicant will use any diving apparatus, including self–contained underwater breathing apparatus, to catch oysters. On this application for a license to catch oysters, the Department shall require the applicant to**]** give the applicant's address and telephone number.

(b) **[**A person who has been**]** **ONLY** a resident of the State **[**for 12 months immediately preceding his application for a license**]** may obtain a license to catch oysters or clams **FOR COMMERCIAL PURPOSES** in the waters of the State.

4–1007.

(a) The Department may **[**designate by rule or regulation certain areas of the State, known as buying stations, where a person who catches oysters and clams may sell them.**]** **ADOPT REGULATIONS DESIGNATING OYSTER AND CLAM BUYING STATIONS AND ESTABLISHING THE PROCEDURES FOR SELLING OYSTERS AND CLAMS.**

(b) **[**(1) A person may not sell his catch in any place not designated a buying station.

(2) A person may not buy oysters or clams from the person who catches them in any place not designated a buying station.

(c) However, any person may buy soft–shell clams anywhere for his own consumption or use as bait, but not for resale from the person who catches them. However, the person who catches the soft–shell clams shall assume responsibility for paying the tax imposed by § 4–1035 of this subtitle.

(d) (1) For every sale of oysters or clams at a buying station, the buyer shall:

(i) Fill out the buying ticket;

(ii) Distribute copies to the seller and the Department; and

(iii) Maintain a copy.

(2)**]** The Department shall print up and make available to the buyer of oysters or clams the necessary forms required **IN REGULATIONS ADOPTED** under this **[**subsection**]** **SECTION**.

[4–1011.

(a) A person may not use patent tongs to catch oysters in any of the following waters: Wicomico, Queen Anne's, Talbot, Dorchester, and Kent counties, except on the following natural oyster bars: 2–9, 2–10, 5–1, 5–2, also known as Huntingfield Bar 5–3, and 5–7, as defined on the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(b) A person may catch oysters by patent or hand tongs in Talbot County waters within the following bounds:

Beginning at Kent Point and following the territorial county line in an easterly direction to where it intercepts the Queen Anne's County–Talbot County line, then following the county line northeasterly to the point where a straight line drawn from Long Point to the Wades Point bell buoy intersects the county line, from there in a southeasterly direction to the Wades Point bell buoy, and then direct to Wades Point, and then following the shoreline to Lowes Point, and then direct towards the Bloody Point Lighthouse for a distance of 1.8 miles, and then direct to North Point on Poplar Island.

(c) A person may not use patent tongs to catch oysters:

(1) In the Patuxent River above and north of a straight line joining Sotterly Wharf and the beacon at St. Leonard Creek; or

(2) In the tributaries of the Potomac River.

(d) A person may take or catch oysters by hand tong only in the waters of Holland Straits lying within the territorial limits of Somerset County. Holland Straits

is that body of water bound by a line, on the north or Tangier Sound side, drawn from Lower Island Point to Sound Point and by a line, on the south or Kedges Straits side, drawn from Pry Island to the southern end of Holland Island.

(e) A person may not use patent tongs to catch oysters in the South River in Anne Arundel County above and west of a straight line drawn between Thomas Point and Saunders Point.

(f) A person may not use patent tongs to catch oysters in waters of Chesapeake Bay that are adjacent to Dorchester County and that lie generally eastward and northward of a line drawn in a southeasterly direction from the southernmost tip of Barren Island to Richland Point on Hooper Island.**]**

4–1012.

(a) A person may not catch oysters by dredge in the Atlantic Coastal Bays, as defined in § 8–1802 of this article, or in the following areas of the Chesapeake Bay: the area bounded by a line drawn from Lowes Point towards the Bloody Point Lighthouse for a distance of 1.8 miles, and then direct to North Point on Poplar Island; then southerly around the westerly shore of Poplar Island to the southwesterly most point; then running in a straight line to the Department marker on the northern shore of Pawpaw Cove which area shall be reserved for catching of oysters with shaft tongs only; all the area lying within one–fourth mile of the western shore of Poplar Island; all the area within one–half mile of Plum Point; all the area within one and one–half miles of Sandy Point, Hackett Point, Tolly Point, and Thomas Point within Anne Arundel County waters; and the following oyster bars: 2–9, 2–10, 5–1, 5–2, 5–3A, 5–3B, 8–2, 8–6, and 8–9, as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(b) **[**A person may not catch oysters by dredge except in the following waters:

(1) Dorchester County. The area bounded as follows: beginning at Crab Point in Honga River, then proceeding in a straight line to the most easterly point on Lower Hooper Island to the Dorchester County line, then following the shore line to Richland Point, then in a straight line southerly to Oakanhanikan Point, then following the north shoreline of Bloodsworth Island to Tigs Point, then in a northeasterly direction to Bishop Head Point, then along the shore to Crab Point, and then to the place of beginning.

(2) Dorchester and Talbot counties. All that portion of the Choptank River within an area bounded as follows: beginning at the Department marker on Upper Bar Neck, Tilghman Island; then proceeding in a straight line easterly to Benoni Lighthouse; then in a straight line easterly to Chlora Point; then in along the shore easterly to Howell Point; then southerly across the Choptank River to Horn Point; then westerly in a straight line to Castlehaven Point; then westerly in a straight line to Todd Point; then westerly in a straight line to Cook Point; along the shore to Hill's Point; then in a straight line to James' Point on James' Island; then in a

straight line to Sharp's Island Lighthouse; then in a straight line to Blackwalnut Point; then along the shore to the Department marker, the point of the beginning.

(3) Somerset County. All the waters of Somerset County, except Pocomoke Sound, including the Wicomico, Manokin, and Big Annemessex rivers, which are defined as follows:

Wicomico River: easterly of a straight line drawn from the former dwelling of Thomas Tigner near Hains Point to the most southwesterly point of Clay Island.

Manokin River: landward or upstream of a straight line joining South Point on Little Deals Island to Hazard Point on the mainland.

Big Annemessex River: easterly of a straight line from Tenth Point to Porpoise Point; and for the purpose of this section, Tenth Point shall be considered to be the easterly point of the marsh at the entrance of Thru Creek shown on published Chart No. 7 of the Oyster Survey of 1906 to 1912, at a position of latitude 38 degrees, 2 minutes, 19.20 seconds and longitude 75 degrees 51 minutes 39.47 seconds; and Porpoise Point shall be considered to be the most westerly point of the marsh of Pat Island and that part of Tangier Sound, south of a line drawn in an easterly course from Terrapin Sands Point on the west side of Tangier Sound to the channel and then following the channel in a southerly direction to the Virginia Line.

(4) Talbot County. The waters bayward of a line beginning at Kent Point and following the territorial county line in an easterly direction to where it intercepts the Queen Anne's County–Talbot County line; then following the county line northeasterly to the point where a straight line drawn from Long Point to the Wades Point bell buoy intersects the county line; from there in a southeasterly direction to the Wades Point bell buoy; and then direct to Wades Point bell buoy; and then direct to Wades Point; then following the shoreline to Lowes Point; and then direct towards the Bloody Point Lighthouse for a distance of 1.8 miles; and then direct to North Point on Poplar Island.

(c)**]** Any boat sailing over any areas of the State which are exempt from dredging, by this subtitle or by rule or regulation of the Department, with any dredge, scrape, scoop, or similar instrument on board or in tow, may be apprehended by any Natural Resources police officer or any other law enforcement officer. If the boat has on board any wet oysters, dredge, or dredge line, or if the deck is wet and the boat is equipped for catching oysters with dredge or similar instrument, these facts shall be prima facie evidence that the boat has been used to violate the provisions of this section.

4–1015.1.

(c) **[**On or after July 1, 1983 and before September 30, 1983, the**]** **THE** Department shall by rule and regulation set aside certain waters of this State to be used exclusively by hand tongers in catching oysters. Before adopting the regulations

in their final form, the Department shall consult each of the local hand tonger committees.

4–1018.

[(a) (1) Every oyster in the shell and every oyster shell sold in the State shall be measured either in a half bushel tub, a bushel tub, a bushel and a half tub, or a 3 bushel tub. A person shall measure oysters in the shell or oyster shells only with an iron circular tub having straight sides and a straight solid bottom, with holes in the bottom for draining which are no larger than 1 inch in diameter. The Department may set standards and allow other bulk containers it deems proper. Every measurement shall be taken from inside to inside. The dimensions shall be as follows:

(i) Half bushel tub – 15 inches across the top, 13 inches across the bottom, and 17 inches diagonally from the inside chime to the top;

(ii) Bushel tub – sixteen and one–half inches across the bottom, 18 inches across the top, and 21 inches diagonally from the inside chime to the top;

(iii) Bushel and a half tub – 18 inches across the bottom, 19 inches across the top, and 24 inches diagonally from the inside chime to the top; and

(iv) Three bushel tub – 22 inches across the bottom, 24 inches across the top, and 29.26 inches diagonally from the inside chime to the top.

(2) All oysters measured in the shell as required by this section shall be even measure to the top of the tub only.**]**

(A) THE DEPARTMENT MAY ADOPT REGULATIONS GOVERNING THE SIZE, TYPE, AND USE OF CONTAINERS USED TO MEASURE OYSTERS HARVESTED OR SOLD IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 174

(Senate Bill 69)

AN ACT concerning

Tobacco Products – Tobacco Tax – Exemptions and Penalties

FOR the purpose of altering certain exemptions from the tobacco tax for cigarettes and other tobacco products brought into the State by certain consumers; establishing certain mandatory fines for first and subsequent violations for a person who willfully ships, imports, sells into or within, or transports within the State cigarettes or other tobacco products on which the tobacco tax has not been paid; establishing penalties of terms of imprisonment for first and subsequent violations for a person who willfully ships, imports, sells into or within, or transports within the State cigarettes or other tobacco products on which the tobacco tax has not been paid; and generally relating to the tobacco tax on cigarettes and other tobacco products.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 12–104 and 13–1015
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

12–104.

(a) "Consumer" means a person who possesses cigarettes or other tobacco products for a purpose other than selling or transporting the cigarettes or other tobacco products.

(b) The tobacco tax does not apply to:

(1) cigarettes that a licensed wholesaler under Title 16 of the Business Regulation Article is holding for sale outside the State or to a United States armed forces exchange or commissary;

(2) other tobacco products that an other tobacco products wholesaler licensed under Title 16.5 of the Business Regulation Article is holding for sale outside the State or to a United States armed forces exchange or commissary; or

(3) cigarettes or other tobacco products that:

(i) a consumer brings into the State:

1. if the quantity brought from another state does not exceed**[**:

A. for a nonresident consumer traveling through this State,**]** other tobacco products having a retail value of **[**$25**]** ~~**$50 or 1 carton**~~ **$100 OR 5 CARTONS** of cigarettes; or

[B. for any other consumer, other tobacco products having a retail value of $5 or 2 packages of cigarettes; or**]**

2. if the quantity brought from a United States armed forces installation or reservation does not exceed~~:~~

~~A. for a consumer who is a member of an armed forces unit or who is entitled by law to make a purchase at an armed forces exchange,~~ other tobacco products having a retail value of **[**$50**]** **$100** or ~~2~~ **5** cartons of cigarettes; ~~or~~

~~B. for any other consumer, other tobacco products having a retail value of [$5] $50 or [2 packages] 1 CARTON of cigarettes that were bought at an armed forces exchange or commissary;~~

(ii) a person is transporting by vehicle in the State if the person has, in the vehicle, the records required by § 16–219 or § 16.5–215 of the Business Regulation Article for the transportation of cigarettes or other tobacco products; or

(iii) are held in storage in a licensed storage warehouse on behalf of a licensed cigarette manufacturer or an other tobacco products manufacturer.

13–1015.

(A) A person who willfully ships, imports, sells into or within, or transports within, this State cigarettes or other tobacco products on which the tobacco tax has not been paid in violation of Title 12 of this article or § 16–219, § 16–222, § 16.5–215, or § 16.5–216 of the Business Regulation Article is guilty of a felony and, on conviction, is subject to **[**a fine not exceeding $50**]** **THE PENALTIES SET FORTH IN SUBSECTIONS (B) AND (C) OF THIS SECTION.**

(B) (1) FOR A FIRST VIOLATION, A PERSON IS SUBJECT TO A MANDATORY FINE OF $150 for each carton of cigarettes or each package of other tobacco products transported **[**or imprisonment not exceeding 2 years or both**]**.

(2) FOR EACH SUBSEQUENT VIOLATION, A PERSON IS SUBJECT TO A MANDATORY FINE OF $300 FOR EACH CARTON OF CIGARETTES OR EACH PACKAGE OF OTHER TOBACCO PRODUCTS TRANSPORTED.

(C) IN ADDITION TO THE MANDATORY FINE SET FORTH IN SUBSECTION (B) OF THIS SECTION, FOR A FIRST OR SUBSEQUENT VIOLATION, A PERSON MAY BE SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 175

(Senate Bill 70)

AN ACT concerning

Business and Economic Development – Enterprise Fund and Invest Maryland Program

FOR the purpose of altering the uses and composition of the Enterprise Fund in the Department of Business and Economic Development; authorizing the Department to acquire a certain ownership interest under certain circumstances; *restricting to a certain percentage the Department's allocation of designated capital in certain side car funds under the Invest Maryland Program; requiring the Maryland Venture Fund Authority to consider whether the State's investment in an applicant for venture firm certification under the Invest Maryland Program would exceed a certain percentage of total investments in the applicant;* expanding certain prohibitions to apply to a purchaser of tax credits under the Invest Maryland Program; prohibiting a certain report from including certain information; altering a certain reporting requirement; altering the method by which a venture firm may make a distribution that is not a qualified distribution; requiring the Comptroller to make certain payments into the Enterprise Fund and the General Fund under certain circumstances; altering certain information that must be included in a certain annual report by the Department; altering a certain definition; *defining a certain term;* making a conforming change; making this Act an emergency measure; and generally relating to the Enterprise Fund and Invest Maryland Program.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 5–602(a) and 6–501(f), (h), (k), (l), (m), (o), and (p)
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 5–602(b) and (g), 5–603(b), 6–501(n) *and (p), 6–511, 6–518(a)(1)*, 6–520, 6–521(a), 6–522, and 6–529
Annotated Code of Maryland

(2008 Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Economic Development

5–602.

(a) There is an Enterprise Fund in the Department.

(b) The Department may use the Fund to:

(1) make a grant or loan, at the rate of interest set by the Department;

(2) provide equity investment financing for a business enterprise;

(3) guarantee a loan, equity, investment, or other private financing to expand the capital resources of a business enterprise;

(4) purchase advisory services and technical assistance to better support economic development; **[**and**]**

(5) PAY THE DEPARTMENT'S OBLIGATIONS TO A VENTURE FIRM UNDER THE INVEST MARYLAND PROGRAM, AS PROVIDED UNDER § 6–522(C)(2)(I) OF THIS ARTICLE; AND

(6) pay the administrative, legal, and actuarial expenses of the Department.

(g) The Fund consists of:

(1) money appropriated by the State to the Fund;

(2) money made available to the Fund through federal programs or private contributions;

(3) repayment of principal of a loan made from the Fund;

(4) payment of interest on a loan made from the Fund;

(5) proceeds from the sale, disposition, lease, or rental by the Department of collateral related to financing that the Department provides under this subtitle;

(6) premiums, fees, royalties, interest, repayments of principal, and returns on investments paid to the Department by or on behalf of:

(i) a business enterprise in which the Department has made an investment under this subtitle; or

(ii) an investor providing an investment guaranteed by the Department under this subtitle;

(7) recovery of an investment made by the Department in a business enterprise under this subtitle, including an arrangement under which the Department's investment in the business enterprise is recovered through:

(i) a requirement that the Department receive a proportion of cash flow, commission, royalty, or payment on a patent; or

(ii) the repurchase from the Department of any evidence of financial participation, including a note, stock, bond, or debenture;

(8) repayment of a conditional grant extended by the Department; **[**and**]**

(9) **MONEY DEPOSITED INTO THE FUND UNDER § 6–522(C)(2)(I) OF THIS ARTICLE; AND**

(10) any other money made available to the Department for the Fund.

5–603.

(b) (1) Whenever the Department is authorized by law to make a grant, including a grant from the Economic Development Opportunities Program Account authorized under § 7–314 of the State Finance and Procurement Article, the Department may use money appropriated for the grant to make an equity investment in a business enterprise.

(2) **(I)** **[**In**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN** making an equity investment under this subtitle, the Department may not acquire an ownership interest in an enterprise that exceeds 25%.

(II) IN MAKING AN EQUITY INVESTMENT UNDER THIS SUBTITLE IN ONE OR MORE VENTURE OR PRIVATE EQUITY FIRMS, THE DEPARTMENT MAY ACQUIRE AN OWNERSHIP INTEREST EXCEEDING 25%.

(3) Within 15 years after making an equity investment under this subtitle, the Department shall divest itself of that investment.

(4) The liability of the State and the Department in making an equity investment under this subtitle is limited to the amount of that investment.

(5) The Department shall adopt regulations governing equity investments under this subsection that specify:

(i) the types of business enterprises in which an investment may be made;

(ii) the basic standards an enterprise shall meet to qualify for an investment;

(iii) the amount of money available for investment; and

(iv) the criteria that the Department uses to make investment decisions.

6–501.

(f) "Designated capital" means the amount of money that a purchaser invests under the Program.

(h) "Financing Authority" means the Maryland Small Business Development Financing Authority under Title 5, Subtitle 5 of this article.

(k) "Program" means the Invest Maryland Program under this subtitle.

(l) "Purchaser" means:

(1) an insurance company that:

(i) is authorized to do business in the State;

(ii) has insurance premium tax liability; and

(iii) contributes designated capital to purchase an allocation of premium tax credits under the Program; or

(2) a holding company that:

(i) has at least one insurance company subsidiary authorized to do business in the State; and

(ii) is contributing designated capital on behalf of one or more of these subsidiaries.

(m) "Qualified business" means a business that, at the time of the first investment in the business under the Program:

(1) has its principal business operations located in the State and intends to maintain its principal business operations in the State after receiving an investment under the Program;

(2) has agreed to use the qualified investment primarily to:

(i) support business operations in the State; or

(ii) in the case of a start–up company, establish and support business operations in the State;

(3) has not more than 250 employees; and

(4) is not primarily engaged in:

(i) retail sales;

(ii) real estate development;

(iii) the business of insurance, banking, or lending; or

(iv) the provision of professional services by accountants, attorneys, or physicians.

(n) (1) "Qualified distribution" means a distribution or payment by a venture firm **OF THE STATE'S PROPORTIONATE ALLOCATION OF COSTS** in connection with:

(i) the reasonable costs and expenses of organizing and syndicating the venture firm, including fees paid for professional services, up to a maximum aggregate amount of $125,000;

(ii) reasonable and necessary fees paid for ongoing professional services, including legal and accounting services, related to the operation of the venture firm, up to a maximum aggregate amount of $50,000 in a single year; and

(iii) a yearly management fee in an amount that does not exceed 2.5% of the designated capital allocated to the venture firm.

(2) "Qualified distribution" does not include**[**:

(i) any amount paid to a purchaser or an affiliate of a purchaser; or

(ii)**]** any costs and expenses related to lobbying or government relations.

(o) (1) "Qualified investment" means the direct or indirect investment of cash by the Enterprise Fund or the Financing Authority in a qualified business for the purchase of any of the following:

(i) a share of stock or other equity interest;

(ii) a debt instrument that is convertible into equity; or

(iii) an equity participation instrument such as an option or warrant.

(2) A qualified investment includes the direct or indirect investment of cash by a venture firm based on the investment criteria set forth in this subtitle.

(p) ***"SIDE CAR AFFILIATE" MEANS AN ENTITY CONTROLLED BY OR UNDER COMMON CONTROL WITH A VENTURE FIRM THAT IS FORMED SOLELY FOR THE PURPOSE OF INVESTING ALONGSIDE THE VENTURE FIRM.***

(Q) "Venture firm" means a partnership, corporation, trust, or limited liability company, whether organized on a profit or a not–for–profit basis, that is certified by the Department as meeting the criteria established under § 6–518 of this subtitle.

6–511.

(a) All designated capital from purchasers shall be deposited into the Enterprise Fund to be invested as provided in this subtitle.

(b) The Department shall allocate designated capital as follows:

(1) 67% to one or more venture firms to fund the making of qualified investments based on the criteria set forth in this subtitle, ***PROVIDED, THAT NOT MORE THAN 20% OF THIS AMOUNT MAY BE INVESTED IN THE SIDE CAR FUND AFFILIATES OF THE VENTURE FIRMS****; and*

(2) 33% to the Enterprise Fund, to be allocated:

(i) $250,000 to the Rural Maryland Council for its operational expenses;

(ii) 75% of the remaining amount to fund the making of qualified investments in qualified businesses under the existing policies and procedures of the Enterprise Fund under Title 5, Subtitle 6 of this article; and

(iii) 25% of the remaining amount to the Financing Authority Equity Participation Investment Program, to be invested in qualified businesses in accordance with the policies and procedures of the Financing Authority under Title 5, Subtitle 5, Part V of this article.

(c) It is the goal of the State that a portion of the designated capital received under subsection (b)(2)(ii) of this section be used to make qualified investments in qualified businesses located in rural areas of the State.

(d) As soon as practicable after the Department receives each installment of designated capital, the Department and each venture firm that has been allocated designated capital shall enter into a contract under which the allocated amount of designated capital will be transferred by the Department to the venture firm for investment as provided in this subtitle.

(e) The Department shall secure the commitment of the purchasers in accordance with § 6–512 of this subtitle.

6–518.

(a) In selecting applicants for venture firm certification, the Authority shall consider:

(1) the management structure of the applicant, including:

(i) the investment experience of the principals;

(ii) the applicant's reputation in the venture firm industry and the applicant's ability to attract co–investment capital and syndicate investments in qualified businesses in the State;

(iii) the knowledge, experience, and capabilities of the applicant in subject areas relevant to venture–stage businesses in the State; ***[****and****]***

(iv) the tenure and turnover history of principals and senior investment professionals of the applicant; ***AND***

(V) WHETHER THE STATE'S INVESTMENT IN THE APPLICATION UNDER THIS PROGRAM WOULD EXCEED 15% OF THE TOTAL INVESTED IN THE APPLICANT BY ALL INVESTORS, INCLUDING INVESTMENTS IN ANY SIDE CAR FUND AFFILIATES;

6–520.

(a) **[**An insurance company**]** **A PURCHASER** or affiliate may not directly or indirectly:

(1) manage a venture firm;

(2) beneficially own, through rights, options, convertible interests, or otherwise, more than 15% of the voting securities or other voting ownership interest of a venture firm; or

(3) control the direction of investments for a venture firm.

(b) Subsection (a) of this section applies whether or not the **[**insurance company**]** **PURCHASER** or affiliate is authorized to do business in the State.

6–521.

(a) Not later than **[**January**]** **MARCH** 31 of each year, each venture firm and the Financing Authority shall report to the Department:

(1) the amount of designated capital remaining uninvested at the end of the preceding calendar year;

(2) all qualified investments made during the preceding calendar year, including the number of employees of each business at the time the qualified investment was made and as of December 31 of that year;

(3) for any qualified investment in which the venture firm or the Financing Authority no longer has a position as of the end of the calendar year, the number of employees of the business as of the date the investment was terminated; and

(4) any other information the Department requires to ascertain the impact of the Program on the economy of the State.

6–522.

(a) A venture firm may make a qualified distribution at any time.

(b) To make a distribution that is not a qualified distribution, a venture firm ~~first~~ shall pay to the Comptroller **[**the total amount of the designated capital allocated to the venture firm**]** **THE VENTURE FIRM'S PRO RATA SHARE OF DISTRIBUTIONS MADE TO ALL LIMITED PARTNERS AS PROVIDED UNDER THE APPLICABLE PARTNERSHIP DOCUMENTS AND ANY AGREEMENT WITH THE DEPARTMENT**.

(c) **[**After the venture firm has made the payment referred to in subsection (b) of this section, any additional nonqualified distributions shall be made:

(1) 80% to the Comptroller; and

(2) 20% to the owners of the venture firm.

(d)**]** **(1)** **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Comptroller shall distribute all payments received under this section to the General Fund within 30 days of receipt.

(2) (I) IF THE DEPARTMENT HAS AN OBLIGATION UNDER APPLICABLE VENTURE FIRM INVESTMENT DOCUMENTS TO RETURN TO THE VENTURE FIRM A PAYMENT PREVIOUSLY DISTRIBUTED TO THE COMPTROLLER, THE COMPTROLLER SHALL DEPOSIT AN AMOUNT EQUAL TO THAT PAYMENT INTO THE ENTERPRISE FUND TO COVER THE OBLIGATION.

(II) IF THE DEPARTMENT DETERMINES THAT THE MONEY DEPOSITED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NO LONGER REQUIRED TO BE RETURNED TO A VENTURE FIRM UNDER THE APPLICABLE INVESTMENT DOCUMENTS, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER THAT THE MONEY MAY BE DISTRIBUTED TO THE GENERAL FUND.

6–529.

(a) (1) On or before January 1, 2013, and January 1 of each subsequent year, the Department shall submit a report on the implementation of the Program to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Budget and Taxation Committee and the House Ways and Means Committee.

(2) The Department shall publish the report on the Department's Web site in a publicly available format.

(3) The report published on the Web site ~~is not required to~~ **MAY NOT** include any proprietary or confidential information.

(b) The report shall include:

(1) with respect to each purchaser of premium tax credits under the Program:

(i) the name of the purchaser of premium tax credits;

(ii) the amount of premium tax credits allocated to the purchaser;

(iii) the amount of designated capital the purchaser contributed for the issuance of the tax credit certificate; and

(iv) the amount of any tax credits that have been transferred under § 6–514 of this subtitle;

(2) with respect to each venture firm that has received an allocation of designated capital:

(i) the name and address of the venture firm;

(ii) the names of the individuals making **DECISIONS ON BEHALF OF THE VENTURE FIRM TO MAKE** qualified investments under the Program;

(iii) the amount of designated capital received during the previous **FISCAL** year;

(iv) the cumulative amount of designated capital received;

(v) the amount of designated capital remaining uninvested at the end of the previous ~~calendar~~ **FISCAL** year;

(vi) the names and locations of qualified businesses receiving designated capital and the amount of each qualified investment;

(vii) **FOR THE PREVIOUS FISCAL YEAR,** the **[**annual performance of each qualified investment, including the investment's**]** **AGGREGATE** fair market value **OF ALL QUALIFIED INVESTMENTS** as calculated according to generally accepted accounting principles; and

(viii) the amount of any qualified distribution or nonqualified distribution taken during the ~~prior~~ **PREVIOUS FISCAL** year, including any management fee;

(3) with respect to the Enterprise Fund:

(i) the amount of designated capital received during the previous **FISCAL** year;

(ii) the cumulative amount of designated capital received;

(iii) the amount of designated capital remaining uninvested at the end of the ~~preceding calendar~~ **PREVIOUS FISCAL** year;

(iv) the names and locations of qualified businesses receiving designated capital and the amount of each qualified investment; and

(v) **FOR THE PREVIOUS FISCAL YEAR,** the **[**annual performance of each qualified investment, including the investment's**]** **AGGREGATE** fair market value **OF ALL QUALIFIED INVESTMENTS** as calculated **[**under Financial Accounting Standard 157 of the Financial Accounting Standards Board**]** **ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES**;

(4) with respect to the Financing Authority:

(i) the amount of designated capital received during the previous **FISCAL** year and the amount allocated to the Equity Participation Investment Program;

(ii) the cumulative amount of designated capital received;

(iii) the amount of designated capital remaining uninvested at the end of the ~~preceding calendar~~ **PREVIOUS FISCAL** year;

(iv) the names and locations of qualified businesses receiving designated capital and the amount of each qualified investment; and

(v) **FOR THE PREVIOUS FISCAL YEAR,** the **[**annual performance of each qualified investment, including the investment's**]** **AGGREGATE** fair market value **OF ALL QUALIFIED INVESTMENTS** as calculated under generally accepted accounting principles; and

(5) **FOR THE PREVIOUS FISCAL YEAR,** with respect to the qualified businesses in which venture firms, the Enterprise Fund, or the Financing Authority have invested:

(i) the classification of the qualified businesses according to the industrial sector and the size of the business;

(ii) the total number of jobs created in the State by the investment and the average wages paid for the jobs; and

(iii) the total number of jobs retained in the State as a result of the investment and the average wages paid for the jobs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2013.

Chapter 176

(Senate Bill 72)

AN ACT concerning

Motor Vehicles – Damage to Highways from Overweight or Oversized Vehicles – Liability and Penalties

FOR the purpose of clarifying that a person who drives or moves certain overweight vehicle loads on a municipal highway is liable for certain damage caused to the highway; establishing that a person who drives or moves certain oversized loads on ~~certain~~ State, county, or municipal highways is liable for all damage caused to the highways as a result of driving or moving the oversized load; establishing a certain exception to liability if an overweight or oversize vehicle is operated in accordance with the terms and conditions of a certain permit; establishing *a* certain maximum civil ~~penalties~~ *penalty* applicable to a person who causes certain damage to certain highways as a result of driving or moving certain oversized loads; establishing joint and several liability under certain circumstances for certain persons who are assessed a civil penalty under this Act; authorizing certain persons to bring an action for a civil penalty under this Act under certain circumstances; and generally relating to liability and penalties for damage to highways caused by oversized vehicles.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 24–208
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Transportation

24–208.

(a) Any person who drives or moves any vehicle or any other object on any State ~~highway or county road~~**, COUNTY, OR MUNICIPAL HIGHWAY** is liable for all damage that the State ~~highway or county road~~**, COUNTY, OR MUNICIPAL HIGHWAY** sustains as a result of:

(1) Any illegal driving or moving of the vehicle or object; **[**or**]**

(2) The driving or moving of any vehicle or object that weighs more than the maximum statutory weight specified in this title, ~~even if~~ **UNLESS** the overweight is authorized by a ~~special~~ permit issued under this title **AND THE VEHICLE IS OPERATED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE PERMIT; OR**

(3) THE DRIVING OR MOVING OF ANY VEHICLE OR OBJECT THAT EXCEEDS THE MAXIMUM STATUTORY HEIGHT OR WIDTH SPECIFIED IN THIS TITLE, ~~EVEN IF~~ UNLESS THE OVERSIZE IS AUTHORIZED BY A ~~SPECIAL~~ PERMIT ISSUED UNDER THIS TITLE AND THE VEHICLE IS OPERATED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE PERMIT.

(b) **ANY PERSON LIABLE FOR DAMAGES IN EXCESS OF $25,000 UNDER SUBSECTION (A)(3) OF THIS SECTION IS ALSO LIABLE FOR A CIVIL PENALTY NOT TO EXCEED ~~THE LESSER OF~~ ~~$100,000~~ ~~$50,000 OR~~ *$10,000* ~~THREE TIMES~~ ~~THE TOTAL~~ ~~COST OF THE DAMAGE TO THE STATE~~ ~~HIGHWAY OR COUNTY ROAD, COUNTY, OR MUNICIPAL HIGHWAY~~.**

(C) If the driver is not the owner of the vehicle or object, but is driving or moving it with the express or implied permission of the owner, the owner and driver are jointly and severally liable for the damage to the State ~~highway or county road~~**, COUNTY, OR MUNICIPAL HIGHWAY AND ANY CIVIL PENALTY ASSESSED UNDER THIS SECTION**.

[(c)**] (D)** A civil action for damages to a State ~~highway or county road~~**, COUNTY, OR MUNICIPAL HIGHWAY AND ANY CIVIL PENALTY** under this section may be brought by the authority in control of it.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 177

(Senate Bill 80)

AN ACT concerning

Public Health – Prescription Drug Monitoring Program – Disclosure of Prescription Monitoring Data

FOR the purpose of adding the Division of Drug Control of the Department of Health and Mental Hygiene to the list of certain entities to which the Prescription Drug Monitoring Program must disclose prescription monitoring data under certain circumstances; and generally relating to the Prescription Drug Monitoring Program.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–2A–06(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–2A–06(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

21–2A–06.

(a) Prescription monitoring data:

(1) Are confidential and privileged, and not subject to discovery, subpoena, or other means of legal compulsion in civil litigation;

(2) Are not public records; and

(3) Except as provided in subsections (b) and (d) of this section or as otherwise provided by law, may not be disclosed to any person.

(b) The Program shall disclose prescription monitoring data, in accordance with regulations adopted by the Secretary, to:

(1) A prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;

(2) A dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;

(3) A federal law enforcement agency or a State or local law enforcement agency, on issuance of a subpoena, for the purpose of furthering an existing bona fide individual investigation;

(4) A licensing entity, on issuance of an administrative subpoena voted on by a quorum of the board of the licensing entity, for the purposes of furthering an existing bona fide individual investigation;

(5) A rehabilitation program under a health occupations board, on issuance of an administrative subpoena;

(6) A patient with respect to prescription monitoring data about the patient;

(7) Subject to subsection (g) of this section, the authorized administrator of another state's prescription drug monitoring program;

(8) The following units of the Department, on approval of the Secretary, for the purpose of furthering an existing bona fide individual investigation:

(i) The Office of the Chief Medical Examiner;

(ii) The Maryland Medical Assistance Program;

(iii) The Office of the Inspector General; **[**and**]**

(iv) The Office of Health Care Quality; **AND**

(V) THE DIVISION OF DRUG CONTROL; or

(9) The technical advisory committee established under § 21–2A–07 of this subtitle for the purposes set forth in subsection (c) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 178

(Senate Bill 83)

AN ACT concerning

Department of Aging – Aging and Disability Resource Center Program – Maryland Access Point

FOR the purpose of *adding to the duties of the Secretary of Aging;* establishing the Aging and Disability Resource Center Program in the Department of Aging; providing that the Program is the State's Aging and Disability Resource Center for purposes of the federal Older Americans Act; specifying the purpose of the Program; requiring the Department to administer, supervise, and coordinate the Program with the cooperation of certain other State agencies; requiring the Program to designate local Program offices and provide certain services and materials; defining certain terms; and generally relating to the *Secretary of Aging and the* Aging and Disability Resource Center Program.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–204
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)

BY adding to
Article – Human Services
Section 10–1001 through 10–1004 to be under the new subtitle "Subtitle 10. Aging and Disability Resource Center Program"
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Human Services

10–204.

(a) The Secretary shall administer the programs and activities that the federal government delegates to the State under the Older Americans Act of 1965 that are not otherwise committed by law to another unit of State government.

(b) The Secretary:

(1) is a member of the Governor's Executive Council; and

(2) shall cooperate with and receive the cooperation of State, federal, and local governmental units to carry out the purposes of this title.

(c) The Secretary shall:

(1) evaluate the service needs of seniors in the State;

(2) determine the extent to which existing public and private programs meet the needs of seniors;

(3) establish priorities for meeting the needs of seniors;

(4) coordinate, subject to existing law, ***[****and****]*** *assess and evaluate****, AND EDUCATE THE PUBLIC AND PROFESSIONALS ABOUT*** *all State and local programs and services, both public and private, that relate and are important to the well–being of seniors in the State, including programs and services in the areas of:*

(i) income maintenance;

(ii) public health;

(iii) mental health;

(iv) housing and urban development;

(v) employment;

(vi) education;

(vii) recreation; and

(viii) rehabilitation of seniors with physical or mental disabilities; and

(5) develop a statewide plan incorporating local plans for a comprehensive and coordinated system of health, social, and community services for seniors, including housing and institutional and noninstitutional care.

(d) The Secretary shall:

(1) represent the interests of seniors by serving as an advocate at all levels of government;

(2) consult with and advise the secretaries of the principal departments of State government about the programs and services for seniors that are the primary responsibility of those departments;

(3) consult with the Commission on Aging on all matters pertaining to programs for seniors;

(4) provide consultation and technical assistance to communities and civic groups developing local services for seniors;

(5) maintain a clearinghouse of information related to the interests of seniors; and

(6) review and recommend policies to the Governor on publicly funded plans and programs that affect seniors.

SUBTITLE 10. AGING AND DISABILITY RESOURCE CENTER PROGRAM.

10–1001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "AGING AND DISABILITY RESOURCE CENTER" HAS THE MEANING STATED IN 42 U.S.C. § 3002(4).

(C) "LONG–TERM SERVICES AND SUPPORTS" MEANS THE BROAD RANGE OF ASSISTANCE NEEDED BY ~~INDIVIDUALS WITH PHYSICAL, COGNITIVE, OR INTELLECTUAL DISABILITIES~~ OLDER ADULTS AND INDIVIDUALS WITH DISABILITIES.

(D) "OPTIONS COUNSELING" MEANS AN INTERACTIVE PROCESS THAT:

(1) CONSIDERS AN INDIVIDUAL'S NEEDS, PREFERENCES, VALUES, AND CIRCUMSTANCES;

(2) ASSISTS AND SUPPORTS THE INDIVIDUAL AND OTHERS THE INDIVIDUAL REQUESTS TO PARTICIPATE IN THE PROCESS;

(3) DETERMINES THE INDIVIDUAL'S GOALS FOR INDEPENDENT LIVING; AND

(4) DEVELOPS AN APPROPRIATE LONG–TERM SERVICES AND SUPPORTS PLAN TO ACHIEVE THOSE GOALS.

(E) "PROGRAM" MEANS THE AGING AND DISABILITY RESOURCE CENTER PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

10–1002.

(A) THERE IS AN AGING AND DISABILITY RESOURCE CENTER PROGRAM, KNOWN AS "MARYLAND ACCESS POINT", IN THE DEPARTMENT.

(B) THE PROGRAM IS THE STATE'S AGING AND DISABILITY RESOURCE CENTER FOR PURPOSES OF THE FEDERAL OLDER AMERICANS ACT AMENDMENTS OF 2006.

(C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE A COORDINATED SYSTEM OF INFORMATION AND ACCESS FOR INDIVIDUALS SEEKING LONG–TERM SERVICES AND SUPPORTS, INCLUDING IN–HOME, COMMUNITY–BASED, AND INSTITUTIONAL SERVICES.

(D) THE DEPARTMENT SHALL ADMINISTER, SUPERVISE, AND COORDINATE THE PROGRAM WITH THE COOPERATION OF THE DEPARTMENT OF DISABILITIES, THE DEPARTMENT OF HUMAN RESOURCES, THE GOVERNOR'S OFFICE OF THE DEAF AND HARD OF HEARING, AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

10–1003.

THE PROGRAM SHALL DESIGNATE LOCAL MARYLAND ACCESS POINT OFFICES THROUGHOUT THE STATE TO ENSURE EASY ACCESS TO THE PROGRAM.

10–1004.

THE PROGRAM SHALL, USING ITS AVAILABLE RESOURCES, PROVIDE:

(1) OPTIONS COUNSELING;

~~(2) ASSESSMENTS TO IDENTIFY AN INDIVIDUAL'S NEEDS AND DESIRES FOR COMPREHENSIVE LONG–TERM SERVICES AND SUPPORTS;~~

~~(3) SCREENING FOR PUBLIC BENEFITS AND PRIVATE RESOURCES;~~

~~(4)~~ (2) ASSISTANCE CONCERNING AGING AND DISABILITY ISSUES AND LONG–TERM SERVICES AND SUPPORTS PLANNING;

~~(5)~~ (3) WRITTEN MATERIALS REGARDING THE AVAILABILITY OF PROGRAM SERVICES;

~~(6)~~ (4) A PUBLIC DATABASE, WHICH CAN BE ACCESSED AND SEARCHED ON THE INTERNET, OF RESOURCES AND SERVICES THAT COULD BE USEFUL TO:

(I) INDIVIDUALS WHO MAY NEED LONG–TERM SERVICES AND SUPPORTS;

(II) CAREGIVERS OF INDIVIDUALS WHO NEED LONG–TERM SERVICES AND SUPPORTS; AND

(III) INDIVIDUALS INVOLVED IN LONG–TERM SERVICES AND SUPPORTS PLANNING; AND

~~(7)~~ (5) OTHER RELATED SERVICES NECESSARY FOR THE PROGRAM'S SUCCESS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 179

(Senate Bill 87)

AN ACT concerning

Vehicle Laws – Seat Belts and Child Safety Seats

FOR the purpose of repealing an exception to the requirement that a child under a certain age riding in a vehicle be secured in a child safety seat or seat belt that applies in instances where all passenger securing locations are in use by other children; prohibiting a person who is at least a certain age from being a passenger in a rear seat of a motor vehicle unless the person is restrained by a seat belt; authorizing a police officer to enforce a certain provision of this Act only as a secondary offense; increasing the fines for certain offenses relating to the mandatory use of seat belts and child safety seats; making conforming changes; and generally relating to seat belts and child safety seats.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 22–412.2, 22–412.3, and 27–106
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Transportation

22–412.2.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Child safety seat" means a device, including a child booster seat, that the manufacturer:

1. Certifies is manufactured in accordance with applicable federal safety standards; and

2. Intends to be used to restrain, seat, or position a child who is transported in a motor vehicle.

(ii) "Child safety seat" does not mean a seat belt or combination seat belt–shoulder harness used alone.

(3) (i) "Seat belt" means a restraining device described under § 22–412 of this subtitle.

(ii) "Seat belt" includes a combination seat belt–shoulder harness.

(b) A child safety seat meets the requirements of this section only if it is installed and used in accordance with the directions of the manufacturer.

(c) This section applies to the transportation of a child in:

(1) A motor vehicle registered, or of a type capable of being registered, in this State as a:

(i) Class A (passenger) vehicle;

(ii) Class E (truck) vehicle; or

(iii) Class M (multipurpose) vehicle; and

(2) A vehicle registered in another state or Puerto Rico that is the same type of vehicle as a vehicle identified in item (1) of this subsection.

(d) A person transporting a child under the age of 8 years in a motor vehicle shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions unless the child is 4 feet, 9 inches tall or taller.

(e) Subject to subsection (d) of this section, a person may not transport a child under the age of 16 years unless the child is secured in:

(1) A child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions; or

(2) A seat belt.

(f) Notwithstanding subsection (d) of this section, if a physician, who is licensed to practice medicine in the state in which the vehicle transporting the child is registered, certifies in writing that use of a child safety seat by a particular child would be impractical due to the child's weight, height, physical unfitness, or other medical reason, there is not a violation of this section.

(g) A child safety seat or seat belt may not be used to restrain, seat, or position more than one individual at a time.

(h) **[**Notwithstanding subsection (d) of this section, if the number of children subject to the provisions of this section exceeds the number of passenger securing locations suitable for securing a child either in a seat belt or in a child safety seat in accordance with this section, and all of those securing locations are in use by children, there is not a violation of this section.

(i)**]** A violation of this section is not contributory negligence and may not be admitted as evidence in the trial of any civil action.

[(j)**] (I)** A violation of this section is not considered a moving violation for purposes of § 16–402 of this article.

[(k)**] (J)** The failure to provide a child safety seat or seat belt for more than one child in the same vehicle at the same time, as required by this section, shall be treated as a single violation.

[(l)**] (K)** (1) Any person convicted of a violation of this section is subject to a fine of **[**$25**] $50**.

(2) A judge may waive the fine if the person charged with violation of this section:

(i) Did not possess a child safety seat at the time of the violation;

(ii) Acquires a child safety seat prior to the hearing date; and

(iii) Provides proof of acquisition to the court.

[(m)**] (L)** The Department of Transportation and the Department of Health and Mental Hygiene shall jointly implement the Child Safety Seat Program and foster compliance with this section through educational and promotional efforts.

22–412.3.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Motor vehicle" means a vehicle that is:

1. Registered or capable of being registered in this State as a Class A (passenger), Class E (truck), Class F (tractor), Class M (multipurpose), or Class P (passenger bus) vehicle; and

2. Required to be equipped with seat belts under federal motor vehicle safety standards contained in the Code of Federal Regulations.

(ii) "Motor vehicle" does not include a Class L (historic) vehicle.

(3) "Outboard front seat" means a front seat position that is adjacent to a door of a motor vehicle.

(4) (i) "Seat belt" means a restraining device described under § 22–412 of this subtitle.

(ii) "Seat belt" includes a combination seat belt–shoulder harness.

(b) A person may not operate a motor vehicle unless the person and each occupant under 16 years old are restrained by a seat belt or a child safety seat as provided in § 22–412.2 of this subtitle.

(c) (1) The provisions of this subsection apply to a person who is at least 16 years old.

(2) Unless a person is restrained by a seat belt, the person may not be a passenger in an outboard front seat of a motor vehicle.

(3) **(I)** **[**A person who violates the provisions of this subsection shall be subject to the penalties under Title 27 of this article**]** **UNLESS A PERSON IS RESTRAINED BY A SEAT BELT, THE PERSON MAY NOT BE A PASSENGER IN A REAR SEAT OF A MOTOR VEHICLE**.

(II) A POLICE OFFICER MAY ENFORCE THIS PARAGRAPH ONLY AS A SECONDARY ACTION WHEN THE POLICE OFFICER DETAINS A DRIVER OF A MOTOR VEHICLE FOR A SUSPECTED VIOLATION OF ANOTHER PROVISION OF THE CODE.

(d) If a physician licensed to practice medicine in this State determines and certifies in writing that use of a seat belt by a person would prevent appropriate restraint due to a person's physical disability or other medical reason, the provisions of this section do not apply to the person.

(e) A certification under subsection (d) of this section shall state:

(1) The nature of the physical disability; and

(2) The reason that restraint by a seat belt is inappropriate.

(f) The provisions of this section do not apply to U.S. Postal Service and contract carriers while delivering mail to local box routes.

(g) A violation of this section is not considered a moving violation for purposes of § 16–402 of this article.

(h) (1) Failure of an individual to use a seat belt in violation of this section may not:

(i) Be considered evidence of negligence;

(ii) Be considered evidence of contributory negligence;

(iii) Limit liability of a party or an insurer; or

(iv) Diminish recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle.

(2) Subject to the provisions of paragraph (3) of this subsection, a party, witness, or counsel may not make reference to a seat belt during a trial of a civil action that involves property damage, personal injury, or death if the damage, injury, or death is not related to the design, manufacture, installation, supplying, or repair of a seat belt.

(3) (i) Nothing contained in this subsection may be construed to prohibit the right of a person to institute a civil action for damages against a dealer, manufacturer, distributor, factory branch, or other appropriate entity arising out of an incident that involves a defectively installed or defectively operating seat belt.

(ii) In a civil action in which 2 or more parties are named as joint tort–feasors, interpleaded as defendants, or impleaded as defendants, and 1 of the joint tort–feasors or defendants is not involved in the design, manufacture, installation, supplying, or repair of a seat belt, a court shall order separate trials to accomplish the ends of justice on a motion of any party.

(i) The Administration and the Department of State Police shall establish prevention and education programs to encourage compliance with the provisions of this section.

(j) The Administration shall include information on this State's experience with the provisions of this section in the annual evaluation report on the State's highway safety plan that this State submits to the National Highway Traffic Safety Administration and the Federal Highway Administration under 23 U.S.C. § 402.

(K) ANY PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS SUBJECT TO A FINE OF NOT MORE THAN $50.

27–106.

(a) Any person who is convicted of a violation of § 22–404.4 of this article shall be fined $250.

(b) **[**Any person who is convicted of a violation of § 22–412.3 of this article is subject to a fine of not more than $25, including court costs.

(c)**]** Any person who is convicted of a violation of § 21–1003(u) or (dd) of this article is subject to a fine of $25.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 180

(Senate Bill 90)

AN ACT concerning

~~**Natural Resources – Vessel Excise Tax – Maximum Tax**~~
~~**Motor Fuel Tax Distribution – Waterway Improvement Fund**~~
Natural Resources – Vessel Excise Tax – Waterway Improvement Fund

FOR the purpose of *limiting the amount of the vessel excise tax to a certain amount for each vessel;* ~~limiting the amount of the vessel excise tax to a certain amount for each vessel; and generally relating to a limitation on the vessel excise tax payable for each vessel~~ altering a certain distribution of certain motor fuel tax revenue; requiring the Comptroller to distribute a certain percentage of the revenue to the Waterway Improvement Fund; *requiring the Department of*

Natural Resources to submit reports on or before certain dates describing the effect of the limitation on the vessel excise tax as enacted by this Act; establishing the Task Force to Study Enhancing Boating and the Boating Industry in Maryland; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to evaluate options and make recommendations for enhancing boating and growing the boating industry; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing that the altered distribution of motor fuel tax revenue as enacted by this Act applies only under certain circumstances; providing for the termination of certain provisions of this Act; and generally relating to the ~~distribution of motor fuel tax revenue~~. *vessel excise tax and the Waterway Improvement Fund.*

~~BY repealing and reenacting, with amendments,~~
~~Article – Natural Resources~~
~~Section 8–716(c)~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume)~~

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–716(c)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–1104
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~Article – Natural Resources~~

~~8–716.~~

~~(c) (1) [Except] SUBJECT TO THE LIMITATION UNDER PARAGRAPH (3) OF THIS SUBSECTION AND EXCEPT as provided in § 8–715(d) of this subtitle and in subsections (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied at the rate of 5% of the fair market value of the vessel on:~~

~~(i) The issuance of every original certificate of title required for a vessel under this subtitle;~~

~~(ii) The issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel;~~

~~(iii) The sale within the State of every other vessel; and~~

~~(iv) The possession within the State of a vessel used or to be used principally in the State.~~

~~(2) Notwithstanding the provisions of this subsection, no tax is paid on issuance of any certificate of title if the owner of the vessel for which a certificate of title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use tax on the vessel as required by law at the time of acquisition. The Department may require the applicant for titling to submit satisfactory proof that the applicant owned the vessel prior to June 1, 1965.~~

~~**(3) THE EXCISE TAX IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED $10,000 FOR ANY VESSEL.**~~

Article – Natural Resources

8–716.

(c) (1) [Except] ***SUBJECT TO THE LIMITATION UNDER PARAGRAPH (3) OF THIS SUBSECTION AND EXCEPT*** *as provided in § 8–715(d) of this subtitle and in subsections (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied at the rate of 5% of the fair market value of the vessel on:*

(i) The issuance of every original certificate of title required for a vessel under this subtitle;

(ii) The issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel;

(iii) The sale within the State of every other vessel; and

(iv) The possession within the State of a vessel used or to be used principally in the State.

(2) Notwithstanding the provisions of this subsection, no tax is paid on issuance of any certificate of title if the owner of the vessel for which a certificate of title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use tax on the vessel as required by law at the time of acquisition. The Department may

require the applicant for titling to submit satisfactory proof that the applicant owned the vessel prior to June 1, 1965.

(3) THE EXCISE TAX IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED $15,000 FOR ANY VESSEL.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

2–1104.

(a) Except as otherwise provided in this section, after making the distributions required under §§ 2–1101 through 2–1103 of this subtitle, from the remaining motor fuel tax revenue, the Comptroller shall distribute:

(1) 2.3% to the Chesapeake Bay 2010 Trust Fund; and

(2) 0.5% TO THE WATERWAY IMPROVEMENT FUND; AND

[(2)**] (3)** any remaining balance to the Gasoline and Motor Vehicle Revenue Account of the Transportation Trust Fund.

(b) For each fiscal year beginning on or before July 1, 2015, instead of the distribution required under subsection (a)(1) of this section, the Comptroller shall distribute 2.3% of the remaining motor fuel tax revenue as follows:

(1) to the General Fund of the State:

(i) $5,000,000 for each fiscal year beginning on or before July 1, 2011;

(ii) $5,000,000 for each of the fiscal years beginning July 1, 2012, July 1, 2013, and July 1, 2014; and

(iii) $4,624,687 for the fiscal year beginning July 1, 2015;

(2) $8,000,000 to the Budget Restoration Fund for the fiscal year beginning July 1, 2012; and

(3) the balance to the Chesapeake Bay 2010 Trust Fund.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall submit a report on or before August 1 of 2014, 2015, and 2016 to the Governor and, in accordance with § 2–1246 of the State Government Article, the

General Assembly that describes the effect of the limitation on the vessel excise tax enacted by Section 1 of this Act during the preceding fiscal year on:

(1) the number and type of vessels registered in the State; and

(2) the health of the boating industry.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force to Study Enhancing Boating and the Boating Industry in Maryland.

(b) The Task Force consists of the Secretary of the Department of Natural Resources or the Secretary's designee, who shall serve as the chair of the Task Force, and the following individuals appointed by the Secretary:

(1) one representative of the Marine Trades Association of Maryland;

(2) one representative of the Department of Business and Economic Development;

(3) one representative of the Maryland Association of Counties;

(4) one representative of the Maryland Municipal League;

(5) one representative of the Boat Owner's Association of the United States;

(6) one representative of the Recreational Boating and Fishing Foundation;

(7) one representative of the Chesapeake Bay Yacht Clubs Association;

(8) one representative from the Maryland Boat Act Advisory Committee;

(9) one individual representing paddle sports; and

(10) one representative of a local tourism board or visitor bureau in a county that borders the Chesapeake Bay.

(c) The Department of Natural Resources shall provide staff for the Task Force.

(d) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The Task Force shall:

(1) evaluate options and make recommendations for enhancing boating and growing the boating industry in the State; and

(2) consider the following:

(i) incentives to encourage boats to register in the State and use marinas and boat yards for recreation, repair, and outfitting in the State;

(ii) the impact of modifying the State vessel excise tax rate and boat registration fees;

(iii) the expenditure and use of the Waterway Improvement Fund and its benefits to the general boating public and the State's boating industry;

(iv) the impact on the boating industry and the general boating public of decreased State and federal spending on boating access;

(v) the costs and needs of maintaining and improving public boating infrastructure and boating safety; and

(vi) any other matter that the Task Force agrees will enhance boating in the State.

(f) On or before September 1, 2015, the Task Force shall submit a report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding Section 1 of this Act, except as otherwise provided in this section, the altered distribution of revenue from the motor fuel tax under the provisions of Title 2, Subtitle 11 of the Tax – General Article as enacted by this Act does not apply until any Consolidated Transportation Bonds that were issued by the Department of Transportation before July 1, 2013, no longer remain outstanding and unpaid. In any fiscal year for which funds are appropriated by the General Assembly to pay the amount due and payable in that fiscal year for the principal of and interest on the Department of Transportation's Consolidated Transportation Bonds ~~that were issued before July 1, 2013~~, the revenue from the motor fuel tax shall be distributed as provided in Title 2, Subtitle 11 of the Tax – General Article as enacted by this Act.

SECTION ~~2.~~ *6.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. *Sections 1 and 4 of this Act shall remain effective for a period of 3*

years and, at the end of June 30, 2016, with no further action required by the General Assembly, Sections 1 and 4 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 181

(Senate Bill 128)

AN ACT concerning

Harford County – Alcoholic Beverages – Hours of Sale for Class B Licensees

FOR the purpose of altering the hours of sale for a Class B Cafe licensee in Harford County; and generally relating to the sale of alcoholic beverages in Harford County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–513
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

11–513.

(a) The provisions of this section apply in Harford County only.

(b) (1) A licensee may sell, offer for sale, or dispense alcoholic beverages:

(i) On Monday through Sunday; and

(ii) Only between 8 a.m. and 2 a.m. the following morning.

(2) **[**A Class B Cafe licensee may offer to sell beer and wine:

(i) On Monday through Saturday from 10 a.m. to 11 p.m.; and

(ii) On Sunday from 10 a.m. to 11 p.m.

(3)**]** During a baseball game only, a licensee who holds a stadium on–sale license under § 8–213.1 of this article may not sell alcoholic beverages:

(i) After the beginning of the eighth inning; or

(ii) During a doubleheader game, after the beginning of the sixth inning of the second game.

(c) A licensee may not:

(1) Allow alcoholic beverages to be consumed on the licensee's premises after 2:15 a.m. or before 8:00 a.m. the same morning; or

(2) Allow alcoholic beverages glasses, bottles, or containers to remain on tables or serving counters after 2:30 a.m.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 182

(Senate Bill 129)

AN ACT concerning

Harford County – Alcoholic Beverages – Class H–CC (Corporate Club/Conference Center) License

FOR the purpose of establishing a Class H–CC (corporate club/conference center) license in Harford County; authorizing the Liquor Control Board to issue the license for an establishment that meets certain requirements; requiring that a corporate dining room in a licensed establishment meets certain requirements; authorizing a holder of the license to engage in certain activities; specifying a license fee; providing that not more than a certain number of licenses may be in effect at one time; making this Act an emergency measure; and generally relating to alcoholic beverages in Harford County.

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(n)(6)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

6–201.

(n) **(6) (I) THERE IS A CLASS H–CC (CORPORATE CLUB/CONFERENCE CENTER) BEER, WINE, AND LIQUOR LICENSE.**

(II) THE LIQUOR CONTROL BOARD MAY ISSUE THE CLASS H–CC LICENSE FOR AN ESTABLISHMENT WITH:

1. A BANQUET ROOM, CONFERENCE ROOM, OR MEETING ROOM THAT IS SUITABLE FOR PUBLIC GATHERINGS AND EQUIPPED WITH FOOD PREPARATION FACILITIES; AND

2. SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, A CORPORATE DINING ROOM THAT IS RESERVED FOR MEMBERS OF A PRIVATE CLUB AND THEIR GUESTS.

(III) A CORPORATE DINING ROOM DESCRIBED IN SUBPARAGRAPH (II)2 OF THIS PARAGRAPH:

1. SHALL BE EQUIPPED FOR THE SALE OF FOOD;

2. MAY BE USED ONLY BY A PRIVATE CLUB OF AT LEAST 25 MEMBERS WHO PAY AN ANNUAL MEMBERSHIP FEE; AND

3. MAY NOT BE USED FOR ANY PURPOSE OTHER THAN FOR THE BENEFIT OF THE CLUB.

(IV) THE HOLDER OF A CLASS H–CC LICENSE MAY:

1. KEEP FOR SALE AND SELL BEER, WINE, OR LIQUOR DURING AN EVENT CONTRACTED WITH ANOTHER PERSON IN ANY OF THE ROOMS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH AND IN OTHER AREAS OF THE LICENSED ESTABLISHMENT THAT ARE APPROVED BY THE LIQUOR CONTROL BOARD;

2. HOLD MULTIPLE EVENTS IN THE LICENSED ESTABLISHMENT SIMULTANEOUSLY;

3. CONTRACT TO PROVIDE BEER, WINE, AND LIQUOR AT AN EVENT HELD OFF THE LICENSED ESTABLISHMENT IF THE EVENT IS IN HARFORD COUNTY AND THE HOLDER ALSO CONTRACTS TO PROVIDE FOOD FOR CONSUMPTION AT THE EVENT; AND

4. MAY NOT HOLD MORE THAN ONE SELF–SPONSORED EVENT PER YEAR IN THE BANQUET, CONFERENCE, OR MEETING ROOM.

(V) THE ANNUAL LICENSE FEE IS $3,000.

(VI) NOT MORE THAN SIX CLASS H–CC LICENSES MAY BE IN EFFECT AT A TIME.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2013.

Chapter 183

(Senate Bill 131)

AN ACT concerning

Harford County Liquor Control Board – Reserve Account

FOR the purpose of establishing a Reserve Account of the Harford County Liquor Control Board as a special, nonlapsing account; specifying the purpose of the Reserve Account; requiring a designee of the Board to administer the Reserve Account; requiring the Board to hold the Reserve Account separately and account for the Reserve Account; specifying the contents of the Reserve Account; specifying a certain maximum amount that is payable annually into the Reserve Account; specifying the circumstances under which expenditures from the Reserve Account may occur; stating a certain maximum amount that the Reserve Account may hold at any time; requiring that fines imposed or recognizances forfeited for certain violations be payable to the Board; defining certain terms; making certain stylistic changes; clarifying language; and generally relating to the Reserve Account of the Harford County Liquor Control Board.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10–204(n) and 16–502(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

10–204.

(n) **(1) (I) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(II) "BOARD" MEANS THE HARFORD COUNTY LIQUOR CONTROL BOARD.

(III) "RESERVE ACCOUNT" MEANS THE RESERVE ACCOUNT OF THE HARFORD COUNTY LIQUOR CONTROL BOARD.

[(1)**] (2)** The provisions of this subsection apply only in Harford County.

[(2)**] (3) [**The**] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE** net proceeds of all funds received by the Board from the sale of licenses under the provisions of this article, outside of the corporate limits of the municipalities of Aberdeen, Bel Air and Havre de Grace, shall be paid to the Treasurer and credited to the general funds of the county.

(4) (I) THERE IS A RESERVE ACCOUNT OF THE BOARD.

(II) THE PURPOSE OF THE RESERVE ACCOUNT IS TO ENSURE THAT ISSUANCE AND RENEWAL OF LICENSES, LICENSING ENFORCEMENT, AND OTHER SERVICES THAT THE BOARD PROVIDES WILL CONTINUE TO BE MET IN THE FACE OF UNANTICIPATED FINANCIAL EVENTS OR CIRCUMSTANCES.

(III) A DESIGNEE OF THE BOARD SHALL ADMINISTER THE RESERVE ACCOUNT.

(IV) THE RESERVE ACCOUNT IS A SPECIAL, NONLAPSING ACCOUNT.

(V) THE BOARD SHALL HOLD THE RESERVE ACCOUNT SEPARATELY AND ACCOUNT FOR THE RESERVE ACCOUNT.

(VI) THE RESERVE ACCOUNT CONSISTS OF:

1. MONEY DISTRIBUTED TO THE BOARD FROM LICENSE FEES;

2. FINES IMPOSED FOR A VIOLATION OF THIS ARTICLE IN HARFORD COUNTY UNDER § 16–502(A)(3) OF THIS ARTICLE;

3. EXCEPT FOR BONDS FORFEITED UNDER § 14–101(C) OF THIS ARTICLE, RECOGNIZANCES FORFEITED FOR A VIOLATION OF THIS ARTICLE IN HARFORD COUNTY UNDER § 16–502(A)(3) OF THIS ARTICLE;

4. INTEREST OR OTHER INCOME EARNED FROM THE INVESTMENT OF ANY PORTION OF THE RESERVE ACCOUNT; AND

5. ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE RESERVE ACCOUNT.

(VII) EACH YEAR, THE AMOUNT PAYABLE INTO THE RESERVE ACCOUNT MAY NOT BE MORE THAN 20% OF THE AGGREGATE NET PROCEEDS RECEIVED BY THE BOARD.

(VIII) EXPENDITURES FROM THE RESERVE ACCOUNT MAY OCCUR IF THE BOARD DETERMINES THAT APPROPRIATIONS FOR THE CURRENT YEAR EXCEED EXPECTED REVENUES.

(IX) THE RESERVE ACCOUNT MAY NOT EXCEED $100,000 AT ANY TIME.

[(3)**] (5)** The net proceeds of the funds derived from the sale of licenses within the corporate limits of the municipalities of Aberdeen, Bel Air and Havre de Grace, after the deduction of a proportionate part of the expenses incident to the proper administration and enforcement of this article, shall be paid by the Board to the treasurers of the respective towns, to be applied to the payment of the interest and the redemption of the principal of any bonded indebtedness.

[(4)**] (6)** All expenses incident to the proper administration and enforcement of this article, including the salaries of the members of the Board, and the proper proportion of the salaries of any employees of the Board, whose duties include the handling of licenses, including the salaries of officers, inspectors, etc., shall be

deducted proportionately from the shares of the license fees payable as set forth in this subsection, to the general funds of the county and the governing bodies of the three municipalities.

[(5)**] (7)** (i) Prior to the beginning of each fiscal year, the Board shall submit an annual budget to the County Council and County Executive for review.

(ii) Except as provided under § 15–205(i)(3) of this article, the budget is not subject to approval by the County Council or County Executive.

(iii) The expenditure of license fees collected by the Board for the administration and enforcement of county liquor laws is a matter entirely within the sound discretion of the Board and the provisions of this subsection.

16–502.

(a) All fines imposed or recognizances forfeited for any violation of any provision of this article shall be payable to**:**

(1) EXCEPT FOR HARFORD COUNTY, the county in which the offense was committed**[**, or to**];**

(2) Baltimore City**,** if the offense was committed in **[**said city**] BALTIMORE CITY; OR**

(3) THE HARFORD COUNTY LIQUOR CONTROL BOARD, IF THE OFFENSE WAS COMMITTED IN HARFORD COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 184

(Senate Bill 139)

AN ACT concerning

Health Care Practitioners – Prescription Drug or Device Dispensing – Medical Facilities or Clinics That Specialize in Treatment Reimbursable Through Workers' Compensation Insurance

FOR the purpose of repealing a certain exception from the requirement that an individual be licensed by the Board of Pharmacy before the individual may practice pharmacy in the State; requiring a dentist, physician, or podiatrist who dispenses a prescription drug or device in the course of treating a patient at a medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance to obtain a dispensing permit and meet certain other requirements; and generally relating to dispensing of prescription drugs or devices by dentists, physicians, or podiatrists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–102(g)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

12–102.

(g) This title does not prohibit a dentist, physician, or podiatrist from dispensing a prescription drug or device in the course of treating a patient:

(1) **[**At a medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance;

(2)**]** At a medical facility or clinic that is operated on a nonprofit basis;

[(3)**] (2)** At a health center that operates on a campus of an institution of higher education; or

[(4)**] (3)** At a public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 185

(Senate Bill 142)

AN ACT concerning

Public Utilities – Telephone Service – Charges for Directory Assistance

FOR the purpose of specifying that certain residential customers are entitled to only a certain number of directory assistance calls each month without charge; requiring the Public Service Commission to approve other charges for directory assistance, subject to a certain exception; repealing a provision that authorizes the Commission to establish additional exemptions from directory assistance charges; and generally relating to telephone service and directory assistance.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 8–202
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

8–202.

(a) (1) The Commission may not authorize telephone company charges to be levied for directory assistance calls made by residential customers on the first two calls made to directory assistance from each residential service per monthly billing cycle.

(2) **[**The**]** **SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE** Commission **[**may**]** **SHALL** authorize charges on other directory assistance calls **[**if the Commission finds, after notice and evidentiary hearing, that the charges:

(i) protect consumers by providing affordable and reasonably priced directory assistance service;

(ii) encourage the development of competition; and

(iii) are in the public interest**]**.

(b) The Commission may not authorize telephone company charges to be levied for directory assistance on an individual who suffers from a physical or visual disability that precludes the use of a telephone directory.

[(c) The Commission may provide other exemptions from telephone company charges to be levied for directory assistance if the exemptions are just and reasonable.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 186

(House Bill 124)

AN ACT concerning

Public Utilities – Telephone Service – Charges for Directory Assistance

FOR the purpose of specifying that certain residential customers are entitled to only a certain number of directory assistance calls each month without charge; requiring the Public Service Commission to approve other charges for directory assistance, subject to a certain exception; repealing a provision that authorizes the Commission to establish additional exemptions from directory assistance charges; and generally relating to telephone service and directory assistance.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 8–202
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

8–202.

(a) (1) The Commission may not authorize telephone company charges to be levied for directory assistance calls made by residential customers on the first two calls made to directory assistance from each residential service per monthly billing cycle.

(2) **[**The**]** **SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE** Commission **[**may**]** **SHALL** authorize charges on other directory assistance calls **[**if the Commission finds, after notice and evidentiary hearing, that the charges:

(i) protect consumers by providing affordable and reasonably priced directory assistance service;

(ii) encourage the development of competition; and

(iii) are in the public interest**]**.

(b) The Commission may not authorize telephone company charges to be levied for directory assistance on an individual who suffers from a physical or visual disability that precludes the use of a telephone directory.

[(c) The Commission may provide other exemptions from telephone company charges to be levied for directory assistance if the exemptions are just and reasonable.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 187

(Senate Bill 143)

AN ACT concerning

Public Schools – Emergency Management Plans – Evaluations

FOR the purpose of requiring each county board of education to evaluate the ~~effectiveness of the~~ emergency management plan in each public school under the jurisdiction of the county board on or before a certain date; requiring each county board of education to report to the State Department of Education on a certain evaluation on or before a certain date; requiring the Department to make a certain report to the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the evaluation of emergency management plans in the public schools in the State.

BY adding to
Article – Education
Section 7–435
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

7–435.

(A) IN ORDER TO ENSURE THAT STUDENTS IN THE STATE HAVE A SAFE AND SECURE PLACE TO LEARN, ON OR BEFORE ~~NOVEMBER 1, 2013~~ FEBRUARY 1, 2014, EACH COUNTY BOARD SHALL EVALUATE ~~THE EFFECTIVENESS OF~~ THE EMERGENCY MANAGEMENT PLAN IN EACH PUBLIC SCHOOL UNDER THE JURISDICTION OF THE COUNTY BOARD, INCLUDING:

(1) TRAINING ACTIVITIES;

(2) EMERGENCY SAFETY EXERCISES;

(3) SCHOOL SECURITY CAMERAS;

(4) SCHOOL VISITOR POLICIES;

(5) SCHOOL RESOURCE OFFICER PROGRAMS; AND

(6) THE COORDINATION OF EMERGENCY MANAGEMENT ACTIVITIES, PLANS, AND RESOURCES WITH LOCAL, STATE, AND FEDERAL AGENCIES.

(B) (1) ON OR BEFORE ~~DECEMBER 1, 2013~~ MARCH 1, 2014, EACH COUNTY BOARD SHALL SUBMIT TO THE DEPARTMENT A REPORT ON THE EVALUATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE REPORT SHALL INCLUDE RECOMMENDATIONS ON ~~HOW~~:

(I) HOW TO IMPROVE ~~THE EFFECTIVENESS OF~~ THE EXISTING PUBLIC SCHOOL EMERGENCY MANAGEMENT PLANS; AND

(II) THE COST OF IMPROVEMENTS TO THE EMERGENCY MANAGEMENT PLANS.

(C) ON OR BEFORE ~~JANUARY~~ JULY 1, 2014, THE DEPARTMENT SHALL, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, SUBMIT TO THE GENERAL ASSEMBLY A REPORT ON:

(1) THE EMERGENCY MANAGEMENT PLANS IN THE PUBLIC SCHOOLS IN THE STATE;

(2) RECOMMENDATIONS ON HOW TO IMPROVE THE ~~EFFECTIVENESS OF THE~~ EMERGENCY MANAGEMENT PLANS; AND

(3) THE COST OF IMPROVEMENTS TO THE EMERGENCY MANAGEMENT PLANS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. It shall remain effective for a period of 1 year and 2 months and, at the end of ~~May~~ July 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 188

(House Bill 983)

AN ACT concerning

Public Schools – Emergency Management Plans – Evaluations

FOR the purpose of requiring each county board of education to evaluate the ~~effectiveness of the~~ emergency management plan in each public school under the jurisdiction of the county board on or before a certain date; requiring each county board of education to report to the State Department of Education on a certain evaluation on or before a certain date; requiring the Department to make a certain report to the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the evaluation of emergency management plans in the public schools in the State.

BY adding to
Article – Education
Section 7–435
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

7–435.

(A) IN ORDER TO ENSURE THAT STUDENTS IN THE STATE HAVE A SAFE AND SECURE PLACE TO LEARN, ON OR BEFORE ~~NOVEMBER 1, 2013~~ FEBRUARY 1, 2014, EACH COUNTY BOARD SHALL EVALUATE ~~THE EFFECTIVENESS OF~~ THE EMERGENCY MANAGEMENT PLAN IN EACH PUBLIC SCHOOL UNDER THE JURISDICTION OF THE COUNTY BOARD, INCLUDING:

(1) TRAINING ACTIVITIES;

(2) EMERGENCY SAFETY EXERCISES;

(3) SCHOOL SECURITY CAMERAS;

(4) SCHOOL VISITOR POLICIES;

(5) SCHOOL RESOURCE OFFICER PROGRAMS; AND

(6) THE COORDINATION OF EMERGENCY MANAGEMENT ACTIVITIES, PLANS, AND RESOURCES WITH LOCAL, STATE, AND FEDERAL AGENCIES.

(B) (1) ON OR BEFORE ~~DECEMBER 1, 2013~~ MARCH 1, 2014, EACH COUNTY BOARD SHALL SUBMIT TO THE DEPARTMENT A REPORT ON THE EVALUATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE REPORT SHALL INCLUDE RECOMMENDATIONS ON ~~HOW~~:

(I) HOW TO IMPROVE ~~THE EFFECTIVENESS OF~~ THE EXISTING PUBLIC SCHOOL EMERGENCY MANAGEMENT PLANS; AND

(II) THE COST OF IMPROVEMENTS TO THE EMERGENCY MANAGEMENT PLANS.

(C) ON OR BEFORE ~~JANUARY~~ JULY 1, 2014, THE DEPARTMENT SHALL, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, SUBMIT TO THE GENERAL ASSEMBLY A REPORT ON:

(1) THE EMERGENCY MANAGEMENT PLANS IN THE PUBLIC SCHOOLS IN THE STATE;

(2) RECOMMENDATIONS ON HOW TO IMPROVE THE ~~EFFECTIVENESS OF THE~~ EMERGENCY MANAGEMENT PLANS; AND

(3) THE COST OF IMPROVEMENTS TO THE EMERGENCY MANAGEMENT PLANS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. It shall remain effective for a period of 1 year and 2 months and, at the end of ~~May~~ July 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 189

(Senate Bill 144)

AN ACT concerning

Property Tax Credit – Historically and Architecturally Valuable Property

FOR the purpose of altering the amount of certain restoration and preservation expenses for certain historic structures that the governing body of a county or municipal corporation may authorize to be claimed by certain taxpayers as a property tax credit against the county or municipal property tax; providing for the application of this Act; and generally relating to a property tax credit for certain restoration and preservation expenses.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–204(b)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

9–204.

(b) A property tax credit of up to **[**10%**] 25%** of the properly documented expenses of a private owner taxpayer for the restoration and preservation of a structure that the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation determines has historic or architectural value may be granted, by law, by the Mayor and City Council of Baltimore City or the governing body against the county or municipal corporation property tax imposed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, May 2, 2013.

Chapter 190

(House Bill 263)

AN ACT concerning

Property Tax Credit – Historically and Architecturally Valuable Property

FOR the purpose of altering the amount of certain restoration and preservation expenses for certain historic structures that the governing body of a county or municipal corporation may authorize to be claimed by certain taxpayers as a property tax credit against the county or municipal property tax; providing for the application of this Act; and generally relating to a property tax credit for certain restoration and preservation expenses.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–204(b)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

9–204.

(b) A property tax credit of up to **[**10%**]** **25%** of the properly documented expenses of a private owner taxpayer for the restoration and preservation of a structure that the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation determines has historic or architectural value may be granted, by law, by the Mayor and City Council of Baltimore City or the governing body against the county or municipal corporation property tax imposed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, May 2, 2013.

Chapter 191

(Senate Bill 148)

AN ACT concerning

Caroline County – Alcoholic Beverages – Micro–Brewery Licenses

FOR the purpose of adding Caroline County to the list of counties in which the Comptroller may issue a Class 7 micro–brewery (on– and off–sale) license; adding Caroline County to the list of counties in which a Class 7 micro–brewery licensee may sell at retail beer brewed under the license to customers for consumption off the licensed premises in refillable containers under certain conditions; and generally relating to alcoholic beverages in Caroline County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–208
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

2–208.

(a) There is a Class 7 micro–brewery (on– and off–sale) license.

(b) The license shall be issued:

(1) By the State Comptroller;

(2) Only in the following jurisdictions:

(i) Allegany County;

(ii) Baltimore City;

(iii) Baltimore County;

(iv) The City of Annapolis;

(v) Anne Arundel County;

(vi) Calvert County;

(vii) **CAROLINE COUNTY;**

(VIII) Carroll County;

[(viii)**] (IX)** Charles County;

[(ix)**] (X)** Dorchester County;

[(x)**] (XI)** Frederick County;

[(xi)**] (XII)** Garrett County;

[(xii)**] (XIII)** Harford County;

[(xiii)**] (XIV)** Howard County;

[(xiv)**] (XV)** Kent County;

[(xv)**] (XVI)** Montgomery County;

[(xvi)**] (XVII)** Prince George's County;

[(xvii)**] (XVIII)** Talbot County;

[(xviii)**] (XIX)** Washington County;

[(xix)**] (XX)** Wicomico County; and

[(xx)**] (XXI)** Worcester County;

(3) (i) Only to a holder of a Class B beer, wine and liquor (on–sale) license that is issued for use on the premises of a restaurant located in a jurisdiction listed in paragraph (2) of this subsection;

(ii) To a holder of a Class D beer (off–sale) license that is issued for use on the premises of the existing Class D license if the premises are located in Kent County or the Town of Berlin in Worcester County; or

(iii) To a holder of a Class D alcoholic beverages license that is issued for use on the premises of the existing Class D license if the premises are located in:

1. The 22nd Alcoholic Beverages District of Prince George's County; or

2. Washington County; and

(4) In addition to item (3) of this subsection, in Montgomery County only to a holder of a Class H beer and light wine license that is issued for use on the premises of a restaurant located in the County.

(c) (1) A holder of a Class 7 micro–brewery license:

(i) May brew and bottle malt beverages at the license location;

(ii) May obtain a Class 2 rectifying license for a premises located within 1 mile of the existing Class 7 micro–brewery location to bottle malt beverages brewed at the micro–brewery location only;

(iii) May contract with the holder of a Class 5 brewery license, a Class 7 micro–brewery license, or a Class 2 rectifying license held under § 2–203 of this subtitle or the holder of a nonresident dealer's permit to brew and bottle malt beverages on their behalf;

(iv) May store the finished product under an individual storage permit or at a licensed public storage facility for subsequent sale and delivery to a licensed wholesaler, an authorized person outside this State, and for shipment back to the micro–brewery location for sale on the retail premises;

(v) May not collectively brew, bottle, or contract for more than 22,500 barrels of malt beverages each calendar year; and

(vi) May enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or wine and beer festival and the return of any unused beer if:

1. The beer festival or wine and beer festival is in a sales territory for which the holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act; and

2. The temporary delivery agreement is in writing.

(2) A Class 7 licensee who wishes to produce more than the barrelage authorized under paragraph (1)(v) of this subsection shall divest of any Class B, D, or any other retail license and obtain a Class 5 manufacturer's license.

(3) For the purposes of determining the barrelage limitation under paragraph (1)(v) of this subsection, any salable beer produced under contractual

arrangements accrues only to the Class 7 micro–brewery licensee who is the brand owner.

(4) In Allegany County only, the holder of a Class 7 license:

(i) May brew in one location and may contract for the bottling of the malt beverage in another location; and

(ii) Need not meet the hotel/motel requirements for a Class B beer, wine and liquor licensee but shall meet the requirements for those Class B restaurants.

(d) (1) The on–sale privilege authorizes the holder, each calendar year, to sell at retail up to 4,000 barrels of beer brewed under this license to customers for consumption on the licensed premises.

(2) The off–sale privilege authorizes the holder to sell and deliver beer brewed under this license to:

(i) Any wholesaler licensed under this article to sell beer in this State; or

(ii) Any person who is located in a state other than Maryland who is authorized under the laws of that state to receive brewed beverages.

(3) (i) This paragraph applies only in:

1. Allegany County;

2. The City of Annapolis;

3. Anne Arundel County;

4. Baltimore City;

5. Baltimore County;

6. Calvert County;

7. **CAROLINE COUNTY;**

8. Carroll County;

[8.**] 9.** Charles County;

[9.**] 10.** Dorchester County;

[10.**] 11.** Frederick County;

[11.**] 12.** Garrett County;

[12.**] 13.** Harford County;

[13.**] 14.** Howard County;

[14.**] 15.** Kent County;

[15.**] 16.** Montgomery County;

[16.**] 17.** Prince George's County;

[17.**] 18.** Talbot County;

[18.**] 19.** Washington County;

[19.**] 20.** Wicomico County; and

[20.**] 21.** Worcester County.

(ii) The holder may sell at retail beer brewed under this license to customers for consumption off the licensed premises in refillable containers that are sealed by the micro–brewery licensee at the time of each refill.

(e) A holder of a Class 7 micro–brewery license:

(1) May not own, operate or be affiliated with any other manufacturer of beer except for a Class 2 rectifying license authorized by subsection (c)(1)(ii) of this section; and

(2) Notwithstanding § 2–201(b) of this subtitle, may not be granted a wholesale alcoholic beverages license.

(f) (1) Except as provided in paragraph (2) of this subsection, the hours and days for consumer sales under a Class 7 micro–brewery license are as established for:

(i) A Class B license in the respective jurisdictions listed in subsection (b)(2) of this section, for a holder of a Class B beer, wine and liquor license;

(ii) A Class D beer license in Worcester County, for a holder of a Class D beer license in the Town of Berlin in Worcester County; or

(iii) A Class D license in Kent County.

(2) For Class D licensees in the 22nd Alcoholic Beverages District in Prince George's County only, the hours and days for consumer sales under this license are as established for a Class D license in Prince George's County.

(3) For Class D licensees in Washington County, the hours and days for consumer sales under this license are as established for a Class D license in Washington County.

(g) In Montgomery County, a holder of a Class 7 micro–brewery license shall enter into a written agreement with the Department of Liquor Control for Montgomery County for the sale and resale of malt beverages brewed under this license in accordance with this article.

(h) For Talbot County, the Office of the Comptroller of Maryland shall specify which local license is the equivalent of the Class B beer, wine and liquor license specified in subsection (b)(3) of this section.

(i) In Carroll County, the distance restriction requirement for micro–breweries is found in § 9–207 of this article.

(j) (1) This subsection applies only in Washington County.

(2) The Comptroller may not issue a Class 7 micro–brewery license for a premises on property that has been leased unless the landlord of the property presents to the Comptroller a receipt or certificate showing that there are no unpaid taxes due to the State, a county, or any local government from the landlord or any entity in which the landlord has a direct or indirect interest that:

(i) Is proprietary; or

(ii) Has been obtained by a loan, mortgage, or lien, or in any other manner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 192

(House Bill 162)

AN ACT concerning

Caroline County – Alcoholic Beverages – Micro–Brewery Licenses

FOR the purpose of adding Caroline County to the list of counties in which the Comptroller may issue a Class 7 micro–brewery (on– and off–sale) license; adding Caroline County to the list of counties in which a Class 7 micro–brewery licensee may sell at retail beer brewed under the license to customers for consumption off the licensed premises in refillable containers under certain conditions; and generally relating to alcoholic beverages in Caroline County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–208
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

2–208.

(a) There is a Class 7 micro–brewery (on– and off–sale) license.

(b) The license shall be issued:

(1) By the State Comptroller;

(2) Only in the following jurisdictions:

(i) Allegany County;

(ii) Baltimore City;

(iii) Baltimore County;

(iv) The City of Annapolis;

(v) Anne Arundel County;

(vi) Calvert County;

(vii) **CAROLINE COUNTY;**

(VIII) Carroll County;

[(viii)**] (IX)** Charles County;

[(ix)**] (X)** Dorchester County;

[(x)**] (XI)** Frederick County;

[(xi)**] (XII)** Garrett County;

[(xii)**] (XIII)** Harford County;

[(xiii)**] (XIV)** Howard County;

[(xiv)**] (XV)** Kent County;

[(xv)**] (XVI)** Montgomery County;

[(xvi)**] (XVII)** Prince George's County;

[(xvii)**] (XVIII)** Talbot County;

[(xviii)**] (XIX)** Washington County;

[(xix)**] (XX)** Wicomico County; and

[(xx)**] (XXI)** Worcester County;

(3) (i) Only to a holder of a Class B beer, wine and liquor (on–sale) license that is issued for use on the premises of a restaurant located in a jurisdiction listed in paragraph (2) of this subsection;

(ii) To a holder of a Class D beer (off–sale) license that is issued for use on the premises of the existing Class D license if the premises are located in Kent County or the Town of Berlin in Worcester County; or

(iii) To a holder of a Class D alcoholic beverages license that is issued for use on the premises of the existing Class D license if the premises are located in:

1. The 22nd Alcoholic Beverages District of Prince George's County; or

2. Washington County; and

(4) In addition to item (3) of this subsection, in Montgomery County only to a holder of a Class H beer and light wine license that is issued for use on the premises of a restaurant located in the County.

(c) (1) A holder of a Class 7 micro–brewery license:

(i) May brew and bottle malt beverages at the license location;

(ii) May obtain a Class 2 rectifying license for a premises located within 1 mile of the existing Class 7 micro–brewery location to bottle malt beverages brewed at the micro–brewery location only;

(iii) May contract with the holder of a Class 5 brewery license, a Class 7 micro–brewery license, or a Class 2 rectifying license held under § 2–203 of this subtitle or the holder of a nonresident dealer's permit to brew and bottle malt beverages on their behalf;

(iv) May store the finished product under an individual storage permit or at a licensed public storage facility for subsequent sale and delivery to a licensed wholesaler, an authorized person outside this State, and for shipment back to the micro–brewery location for sale on the retail premises;

(v) May not collectively brew, bottle, or contract for more than 22,500 barrels of malt beverages each calendar year; and

(vi) May enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or wine and beer festival and the return of any unused beer if:

1. The beer festival or wine and beer festival is in a sales territory for which the holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act; and

2. The temporary delivery agreement is in writing.

(2) A Class 7 licensee who wishes to produce more than the barrelage authorized under paragraph (1)(v) of this subsection shall divest of any Class B, D, or any other retail license and obtain a Class 5 manufacturer's license.

(3) For the purposes of determining the barrelage limitation under paragraph (1)(v) of this subsection, any salable beer produced under contractual arrangements accrues only to the Class 7 micro–brewery licensee who is the brand owner.

(4) In Allegany County only, the holder of a Class 7 license:

(i) May brew in one location and may contract for the bottling of the malt beverage in another location; and

(ii) Need not meet the hotel/motel requirements for a Class B beer, wine and liquor licensee but shall meet the requirements for those Class B restaurants.

(d) (1) The on–sale privilege authorizes the holder, each calendar year, to sell at retail up to 4,000 barrels of beer brewed under this license to customers for consumption on the licensed premises.

(2) The off–sale privilege authorizes the holder to sell and deliver beer brewed under this license to:

(i) Any wholesaler licensed under this article to sell beer in this State; or

(ii) Any person who is located in a state other than Maryland who is authorized under the laws of that state to receive brewed beverages.

(3) (i) This paragraph applies only in:

1. Allegany County;

2. The City of Annapolis;

3. Anne Arundel County;

4. Baltimore City;

5. Baltimore County;

6. Calvert County;

7. **CAROLINE COUNTY;**

8. Carroll County;

[8.**] 9.** Charles County;

[9.**] 10.** Dorchester County;

[10.**] 11.** Frederick County;

[11.**] 12.** Garrett County;

[12.**] 13.** Harford County;

[13.**] 14.** Howard County;

[14.**] 15.** Kent County;

[15.**] 16.** Montgomery County;

[16.**] 17.** Prince George's County;

[17.**] 18.** Talbot County;

[18.**] 19.** Washington County;

[19.**] 20.** Wicomico County; and

[20.**] 21.** Worcester County.

(ii) The holder may sell at retail beer brewed under this license to customers for consumption off the licensed premises in refillable containers that are sealed by the micro–brewery licensee at the time of each refill.

(e) A holder of a Class 7 micro–brewery license:

(1) May not own, operate or be affiliated with any other manufacturer of beer except for a Class 2 rectifying license authorized by subsection (c)(1)(ii) of this section; and

(2) Notwithstanding § 2–201(b) of this subtitle, may not be granted a wholesale alcoholic beverages license.

(f) (1) Except as provided in paragraph (2) of this subsection, the hours and days for consumer sales under a Class 7 micro–brewery license are as established for:

(i) A Class B license in the respective jurisdictions listed in subsection (b)(2) of this section, for a holder of a Class B beer, wine and liquor license;

(ii) A Class D beer license in Worcester County, for a holder of a Class D beer license in the Town of Berlin in Worcester County; or

(iii) A Class D license in Kent County.

(2) For Class D licensees in the 22nd Alcoholic Beverages District in Prince George's County only, the hours and days for consumer sales under this license are as established for a Class D license in Prince George's County.

(3) For Class D licensees in Washington County, the hours and days for consumer sales under this license are as established for a Class D license in Washington County.

(g) In Montgomery County, a holder of a Class 7 micro–brewery license shall enter into a written agreement with the Department of Liquor Control for Montgomery County for the sale and resale of malt beverages brewed under this license in accordance with this article.

(h) For Talbot County, the Office of the Comptroller of Maryland shall specify which local license is the equivalent of the Class B beer, wine and liquor license specified in subsection (b)(3) of this section.

(i) In Carroll County, the distance restriction requirement for micro–breweries is found in § 9–207 of this article.

(j) (1) This subsection applies only in Washington County.

(2) The Comptroller may not issue a Class 7 micro–brewery license for a premises on property that has been leased unless the landlord of the property presents to the Comptroller a receipt or certificate showing that there are no unpaid taxes due to the State, a county, or any local government from the landlord or any entity in which the landlord has a direct or indirect interest that:

(i) Is proprietary; or

(ii) Has been obtained by a loan, mortgage, or lien, or in any other manner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 193

(Senate Bill 151)

AN ACT concerning

Hospitals – Outpatient Services – Off–Site Facility – Rate Regulation

FOR the purpose of altering the hospital outpatient services for which the Maryland Medical Assistance Program must pay according to certain rates, under certain circumstances; altering the date by which a hospital must notify the Health

Services Cost Review Commission that the hospital would like certain services to be subject to certain provisions of law; altering the hospital outpatient services for which a hospital may elect to be subject to certain provisions of law; requiring the University of Maryland Medical System to track utilization of certain services and submit certain reports to certain legislative committees; making certain clarifying and stylistic changes; making a certain technical change; making this Act an emergency measure; and generally relating to rates for hospital outpatient services at an off–site facility.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–105(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 670 of the Acts of the General Assembly of 1999
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

15–105.

(d) (1) The Department shall adopt regulations for the reimbursement of specialty outpatient treatment and diagnostic services rendered to Program recipients at a freestanding clinic owned and operated by a hospital that is under a capitation agreement approved by the Health Services Cost Review Commission.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the reimbursement rate under paragraph (1) of this subsection shall be set according to Medicare standards and principles for retrospective cost reimbursement as described in 42 C.F.R. Part 413 or on the basis of charges, whichever is less.

(ii) The reimbursement rate for **[**a**]** hospital **[**that has transferred**]** outpatient oncology, diagnostic, **AND** rehabilitative**[**, and digestive disease**]** services **THAT THE HOSPITAL TRANSFERRED** to an off–site facility prior to January 1, 1999**,** shall be set according to the rates approved by the Health Services Cost Review Commission if:

1. The transfer of services was due to zoning restrictions at the hospital campus;

2. The off–site facility is surveyed as part of the hospital for purposes of accreditation by the Joint Commission **[**on Accreditation of Healthcare Organizations**]**; and

3. The hospital notifies the Health Services Cost Review Commission in writing by **[**July 1, 1999**] JUNE 1, 2013,** that the hospital would like the services provided at the off–site facility **TO BE** subject to Title 19, Subtitle 2 of this article.

Chapter 670 of the Acts of 1999

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any provision of § 19–201 of the Health – General Article, a hospital that has transferred outpatient oncology, diagnostic, **AND** rehabilitative**[**, and digestive disease**]** services to an off–site facility prior to January 1, 1999**,** may elect to have these outpatient services **BE** subject to Title 19, Subtitle 2 of the Health – General Article if:

(a) the transfer was due to zoning restrictions at the hospital campus;

(b) the off–site facility is surveyed as part of the hospital for purposes of accreditation by the Joint Commission **[**on the Accreditation of Healthcare Organizations**]**; and

(c) the hospital notifies the Health Services Cost Review Commission in writing by **[**July 1, 1999**] JUNE 1, 2013,** that the hospital would like the services provided at the off–site facility **TO BE** subject to Title 19, Subtitle 2 of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That the University of Maryland Medical System:

(a) shall track utilization, including payer mix, of outpatient digestive disease services provided at on–site and off–site facilities within the Shore Health System before and after the sale or transfer of an off–site facility at which digestive disease services are provided; and

(b) on or before January 1, 2014, and on or before January 1, 2015, shall submit a report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and House Health and Government Operations Committee on the changes in utilization, including payer mix, of outpatient digestive disease services provided at on–site and off–site facilities within the Shore Health System before and after the sale or transfer of the off–site facility.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members

elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2013.

Chapter 194

(Senate Bill 154)

AN ACT concerning

Somerset County – County Treasurer – Abolishment and Transfer of Functions to the County Supervisor of Tax Collection

FOR the purpose of abolishing the elected position of County Treasurer of Somerset County; transferring the duties and functions of the office of County Treasurer to the County Supervisor of Tax Collection, who shall work under the direction of the County Finance Director; repealing provisions related to the appointment and salary of the deputy treasurer of Somerset County; providing that the Supervisor of Tax Collection is subject to dismissal from office by the County Commissioners of Somerset County under certain circumstances and discipline or dismissal for a violation of certain rules and regulations; repealing provisions related to the removal of the County Treasurer; requiring the County Commissioners to provide an office for the Supervisor of Tax Collection to be open during certain hours on certain days of the week; requiring the Supervisor of Tax Collection to execute certain bonds for certain purposes to be paid for by the County Commissioners; providing for the appointment of Supervisors of Tax Collection in the event that a Supervisor of Tax Collection fails to execute a certain bond on or before a certain day; repealing provisions relating to a vacancy in the office of County Treasurer; repealing certain provisions relating to the documents of the County Treasurer's office; repealing provisions relating to the successor of the County Treasurer; providing that this Act does not ~~apply to the salary or compensation~~ *affect the term of office* of the incumbent County Treasurer; and generally relating to the abolishment of the elected position of County Treasurer of Somerset County and the transfer of the duties and functions of the office of County Treasurer to the County Supervisor of Tax Collection.

BY repealing
The Public Local Laws of Somerset County
Section 7–101 through 7–103, 7–108, 7–111, and 7–113
Article 20 – Public Local Laws of Maryland
(2003 Edition and 2009 Supplement, as amended)

BY adding to

The Public Local Laws of Somerset County
Section 7–101 and 7–102
Article 20 – Public Local Laws of Maryland
(2003 Edition and 2009 Supplement, as amended)

BY repealing and reenacting, with amendments,
The Public Local Laws of Somerset County
Section 7–104 through 7–107, 7–109, 7–110, 7–112, 7–114 through 7–118, 7–202 through 7–205, 7–302, and 9–103
Article 20 – Public Local Laws of Maryland
(2003 Edition and 2009 Supplement, as amended)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10–202(p)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
~~Article 25 – County Commissioners~~
~~Section 51(r)~~
~~Annotated Code of Maryland~~
~~(2011 Replacement Volume and 2012 Supplement)~~
Article – Local Government
Section 16–204
Annotated Code of Maryland
(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of 2013)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 20 – Somerset County

[7–101.

(a) There is a County Treasurer in Somerset County, who shall be elected for a 4–year term in accordance with the provisions of Article XVII of the Constitution of Maryland.

(b) The County Treasurer shall qualify on the first Tuesday in January after the election and hold office until a successor is duly elected and qualified.**]**

7–101.

(A) NOTWITHSTANDING ANY OTHER LAW, THE DUTIES AND FUNCTIONS OF THE OFFICE OF COUNTY TREASURER ARE TRANSFERRED TO THE COUNTY SUPERVISOR OF TAX COLLECTION, WHO SHALL WORK UNDER THE DIRECTION OF THE FINANCE DIRECTOR.

(B) THE COUNTY COMMISSIONERS SHALL APPOINT A SUPERVISOR OF TAX COLLECTION, WHO SHALL WORK WITH THE TAX COLLECTION OFFICE AS PART OF THE FINANCE DEPARTMENT UNDER THE DIRECTION OF THE FINANCE DIRECTOR.

[7–102.

(a) The Treasurer shall appoint a deputy and specify the deputy's duties. The Treasurer is responsible for the official conduct of the deputy treasurer, and the deputy shall act for the Treasurer during the Treasurer's absence.

(b) The deputy's annual salary shall be set by the County Commissioners.**]**

7–102.

THE SUPERVISOR OF TAX COLLECTION SHALL BE SUBJECT TO:

(1) DISMISSAL FROM OFFICE AT ALL TIMES BY THE COUNTY COMMISSIONERS FOR WILLFUL NEGLECT OF DUTY, MISDEMEANOR, OR MALFEASANCE IN OFFICE; AND

(2) DISCIPLINE OR DISMISSAL FOR A VIOLATION OF THE RULES AND REGULATIONS AS PROVIDED IN THE SOMERSET COUNTY EMPLOYEES HANDBOOK OF GOVERNING RULES AND REGULATIONS.

[7–103.

The County Treasurer may be removed from office by the Judges of the Circuit Court of Somerset County upon conviction for willful neglect of duty, misdemeanor, or malfeasance in office. The conviction shall be based upon presentment and indictment by the Grand Jury of Somerset County.**]**

[7–104.**] 7–103.**

(a) The County Commissioners shall provide an office for the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** for the transaction of official business.

(b) The **[**Treasurer's**] TAX COLLECTION** office shall be open between 8:30 a.m. and 4:30 p.m. weekdays. It shall be closed on Saturdays, Sundays, and State holidays.

[7–105.**] 7–104.**

(a) The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall receive and collect all State and County taxes and all other money due to the County.

(b) The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** has full power to enforce the payment of taxes by sale or otherwise and to convey title to any real or personal property sold by the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** for the payment of State and County taxes in the manner prescribed by this title.

[7–106.**] 7–105.**

(a) **[**Before entering upon the duties of the office, the Treasurer shall take an oath before the Clerk of the Circuit Court for Somerset County that he faithfully will perform the duties of the office.

(b) (1)**]** The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall execute two bonds, each in the amount of $150,000, as follows:

[(i)**] (1)** To the State of Maryland; and

[(ii)**] (2)** To Somerset County.

[(2)**] (B) (1)** The bonds shall be executed for the faithful performance of the **[**Treasurer's**] SUPERVISOR OF TAX COLLECTION'S** duties as **[**Treasurer**] COUNTY TAX COLLECTOR**. The bonds shall be conditioned that the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** will well and truly account and be liable for any and all money coming into his possession as **[**Treasurer and**] TAX** collector, for which the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** is answerable by law.

(2) The bonds shall be secured by a fidelity or security company qualified to act as surety or guarantor under the laws of Maryland.

(3) **[**They**] THE BONDS** shall be recorded in the office of the Clerk of the Circuit Court for the County and the premium on the bonds shall be paid by the County Commissioners.

[7–107.**] 7–106.**

(A) Upon failure of **[**any Treasurer**] THE SUPERVISOR OF TAX COLLECTION** to execute the bond required on or before the day on which the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** is to enter on the duties of the office, the County Commissioners shall appoint **[**some qualified**] A COMPETENT**

PERSON WHO IS A voter of Somerset County as **[**Treasurer and collector**] SUPERVISOR OF TAX COLLECTION** during that term in the place of the one who failed to qualify.

(B) In case of the new **[**Treasurer's**] SUPERVISOR OF TAX COLLECTION'S** failure to qualify within 30 days, the County Commissioners shall appoint another **COMPETENT** person, **IN** 30 days' intervals, until a **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** is duly qualified.

(C) EACH SUPERVISOR OF TAX COLLECTION SHALL BE SUBJECT TO THE PROVISIONS OF THIS TITLE.

[7–108.

Within 30 days after a vacancy occurs in the office of Treasurer, the County Commissioners shall appoint a Treasurer and collector for the unexpired term who shall take the oath, give the bond, and perform all the duties of the office prescribed by law.**]**

[7–109.**] 7–107.**

The **[**County Treasurer**] SUPERVISOR OF TAX COLLECTION** or the Clerk to the County Commissioners may administer an oath or affirmation to any account to any person who presents a claim against Somerset County, without charge for the oath or affirmation.

[7–110.**] 7–108.**

(A) The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall keep a full and fair cash account, showing all sums of money received by him, so as to indicate the source from which the money was received.

(B) The account shall show the money paid out by him either to the County Commissioners or to the State Treasurer.

[7–111.

All books, documents, and papers pertaining to the County Treasurer's office are the property and records of Somerset County, and shall be kept in the County–designated office for the County Treasurer. At any time, the County Commissioners, the Grand Jury of Somerset County, or any County taxpayer may examine them. All books, documents and papers, accounts, credits, and deposits belonging to the Treasurer's office or in the custody of the Treasurer shall be transferred to his successor in office when that successor is duly elected and qualified.**]**

[7–112.**] 7–109.**

(a) **(1)** The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall deposit in the manner required by this title all County taxes and all money due the County which the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** has collected.

(2) When the County taxes for any year have been collected in full, the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall deliver to the County Commissioners a statement of deposits that show the collections in full.

(b) The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall pay into the Treasury of the State of Maryland, according to law, all the State taxes levied and collected in the County.

(c) **(1)** The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall be allowed 2 years from the date of each levy placed in his hands for collection to complete that collection and to make his final settlement with the County Commissioners and with the Treasurer of Maryland.

(2) Immediately after the expiration of the 2 years the County Commissioners shall bring suit on the bond of the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** for all County taxes in his hands uncollected or unaccounted for to the County Commissioners.

[7–113.

The County Commissioners, at any time after the expiration of the term of any County Treasurer, or at the time of the final settlement for which provision is made in this subtitle, may require the Treasurer to deliver over to the Treasurer's successor in office all collectible taxes due upon the levies with which the Treasurer was charged. The Treasurer shall deliver over the notices, schedules, and other proceedings had for the enforcement of payment of the taxes. In that case the successor, or newly elected or qualified Treasurer, upon the delivery to him of the bills for the taxes, shall enforce the payment of the taxes in the same manner as his predecessor could have done. The Treasurer has all the power and authority in law with which his predecessor was clothed for the purpose. In that case the bond of the newly elected or succeeding Treasurer is responsible for the proper collection and distribution of the taxes, and the bond of the preceding Treasurer shall be held responsible for whatever taxes remain uncollected from the preceding Treasurer's fault or negligence.**]**

[7–114.**] 7–110.**

If the bond of **[**any Treasurer**] THE SUPERVISOR OF TAX COLLECTION** becomes liable to Somerset County or to the State of Maryland for any unpaid or uncollected taxes, the sureties on the bond may enforce the payment of the taxes in the manner as the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** could have done.

[7–115.**] 7–111.**

(A) The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** or his designee shall be present and available in the **[**office of the Treasurer**] TAX COLLECTION OFFICE** during regular office hours to collect taxes.

(B) The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** may collect taxes at other locations within Somerset County after giving a 2–week public notice in local newspapers of the time and place of the temporary collection points.

[7–116.**] 7–112.**

(a) Upon request and payment of a fee of 50 cents, the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall issue a certified statement, over his signature, of all taxes assessed since the first day of January, 1908, that are due and unpaid at the time of making the certificate and are a lien upon any particular piece of real estate located in Somerset County and on any tax sale affecting that piece of property since that date.

(b) **(1)** The certificate is a bar to the collection or recovery from any purchaser of real estate after the issue of the certificate of any tax or assessment omitted from the certificate and which is a lien on the real estate mentioned in it.

(2) The certificate does not affect the liability for the tax of the person who owned the real estate at the time the tax was levied, or at any time after the levy and before the issue of the certificate.

(c) The **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** is responsible to the County for any loss of taxes that arises from an error in the certificate.

[7–117.**] 7–113.**

(A) At least once in each year, the **[**Treasurer**] SUPERVISOR OF TAX COLLECTION** shall correct the list of transfers on the tax books of the County in accordance with the list furnished by the local office of the State Department of Assessments and Taxation.

(B) This correction shall be made not more than 30 days before the time set for the making of the annual levy.

[7–118.**] 7–114.**

(A) The provisions of the Code of Public General Laws of Maryland that are applicable to collectors of State and county taxes, except when they are repealed by or

inconsistent with the provisions of this subtitle, apply to the **[**County Treasurer**]** **SUPERVISOR OF TAX COLLECTION**.

(B) As to the power, rights, duties, and liabilities, both civil and criminal, and those affecting the **[**Treasurer's**]** **SUPERVISOR OF TAX COLLECTION'S** bond or bondsmen, the **[**County Treasurer**]** **SUPERVISOR OF TAX COLLECTION** is in all respects in the same position as State and county collectors of taxes, except as provided in this title.

7–202.

(a) Immediately after the levy, the County Commissioners shall give notice of it by advertisement inserted once in a newspaper of general circulation.

(b) The **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall prepare the tax bills of each taxpayer and forward them by mail or deliver them to the person or persons, or corporate institutions, or to the agent of the person or persons, or corporate institutions to whom the property included in the tax bills is assessed, so far as their residence or post office address may be ascertained by the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION**.

(c) The tax bills shall contain a notice to that effect that if the taxes are not paid on or before the next January 1, with the interest due on them after October 1, the taxes will be collected by process of law.

7–203.

(a) On October 1 following the levy, unpaid taxes are in arrears.

(b) The **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall enforce the payment of all taxes on real property that are unpaid on the following January 1 in the manner provided in State law.

7–204.

(a) **(1)** At least once in each week the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall deposit in a national or State bank in Somerset County all taxes received or collected by the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** up to the date of the deposit.

(2) The portion due the State shall be deposited to the **[**Treasurer's**]** **SUPERVISOR OF TAX COLLECTION'S** credit as collector of State taxes, and the portion due Somerset County shall be deposited to the credit of the County Commissioners.

(b) Once a month, the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall forward to the State Treasurer a check for the amount of State taxes to the State Treasurer's credit in the bank.

(c) The **[**County Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall receive from the bank a certificate of deposit for each deposit to the credit of the County Commissioners, which the **[**County Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall deliver to them at their next regular meeting, and for which they shall give to the **[**County Treasurer**]** **SUPERVISOR OF TAX COLLECTION** a proper receipt or voucher.

(d) Funds shall be drawn only from the bank upon the check of the President of the County Commissioners, countersigned by the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION**:

(1) In payment of debts and accounts due by Somerset County, duly approved and passed by the County Commissioners and ordered by them to be paid; or

(2) For the investment of excess County funds.

(e) County funds may not be invested for terms that would cause a shortage of cash flow.

(f) Excess funds may be invested by the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** in:

(1) Treasury bills;

(2) The local government investment pool established in Article 95, § 22G of the Code; and

(3) State and national banks.

(g) The **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall maintain evidence that all invested funds are protected from any losses, through collateralized securities, FDIC insured accounts, or the full faith and credit of the federal government.

7–205.

(a) All claims for erroneous, insolvent, or uncollectible tax bills for which the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** claims a credit shall be presented to the County Commissioners before or at the time specified for the final settlement.

(b) The County Commissioners may not allow credit for erroneous, insolvent, or uncollectible taxes, unless satisfactory proof is produced under oath that they cannot be collected.

7–302.

(a) Whenever it is necessary to enforce the payment of taxes by a sale of personal property, the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall make out a bill for the taxes in the usual form, with an order at the bottom of the bill directing the County Sheriff to levy upon the personal property of the delinquent and to sell it to satisfy and pay the taxes that are due.

(b) The Sheriff, upon receiving the tax bill and order, shall levy upon and sell the personal property of the delinquent in the same manner and upon the same notice.

(c) The Sheriff is entitled to the same fees as if the Sheriff were proceeding under an execution from a judge of the District Court.

(d) Immediately after the sale, the Sheriff shall pay over to the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** the amount due on the tax bill, and any surplus which remains after the payment of the taxes, interest, and cost shall be paid by the Sheriff to the delinquent taxpayer.

(e) The Sheriff's bond is liable for all of the tax bills that are placed in the Sheriff's hands by the **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** to the same extent and in the same manner that the bond is liable for execution claims issued to him.

9–103.

(a) At the time of making their annual levy, the County Commissioners shall levy an amount annually that is necessary:

(1) For building, repairing, reconstruction, maintenance, and regulation of the use of the public roads, bridges, drains, water courses, public landings, culverts, and curbs and gutters along them in Somerset County, and

(2) For the purchase and maintenance of equipment and for the purchase or rental of land or buildings to be used for that purpose.

(b) The money levied shall be designated "For construction, reconstruction, and maintenance of County roads, bridges, drains, water courses, public landings, culverts, curbs, and gutters and purchasing and renting of equipment, land, and buildings in connection with them". The money may not be earmarked by the County Commissioners for specific purposes; all authority to earmark is vested in the County Roads Board.

(c) All levied and received money shall be deposited by the **[**County Treasurer**]** **SUPERVISOR OF TAX COLLECTION** in a special fund for that purpose and paid out of that fund by the **[**County Treasurer**]** **SUPERVISOR OF TAX COLLECTION** on requisition of the County Roads Board. Any unexpected surplus remaining in this account at the end of any year may be carried over and used by the County Roads Board in future years to carry out the purposes of this title or may be used on account of the costs of the succeeding year's roads program.

(d) Title to land, buildings, or equipment purchased by the County Commissioners or by the County Roads Board remains in the County Commissioners.

Article 2B – Alcoholic Beverages

10–202.

(p) In Somerset County:

(1) Notice of each application for a license shall be published once a week for 2 consecutive weeks in at least one newspaper published in the municipal corporation or unincorporated area in which, or nearest to which, the applicant's proposed place of business is to be located;

(2) The applicant for the license shall pay the Board of License Commissioners a fee of $350 to cover the costs of the advertising required by paragraph (1) of this subsection and the costs of processing the application; and

(3) After the Board of License Commissioners has approved the application for a license, the County **[**Treasurer**]** **SUPERVISOR OF TAX COLLECTION** shall issue the license on payment of the fee required for the license and the fee required by **[**paragraph (1)**]** **ITEM (2)** of this subsection.

~~**Article 25 – County Commissioners**~~

~~51.~~

~~**[**(r) The annual salary of the County Treasurer of Somerset County is $60,000.**]**~~

Article – Local Government

[16–204.

The annual salary of the County Treasurer of Somerset County is $60,000.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That, nothing in this Act affects the term of office of the incumbent County Treasurer of Somerset County. The

individual who is serving as County Treasurer on the effective date of this Act shall remain County Treasurer for the balance of the term to which elected unless the County Treasurer dies, resigns, or is removed under provisions of law before the expiration of the term.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 195

(Senate Bill 155)

AN ACT concerning

Somerset County – Sale of Small Boat Harbor Dock

FOR the purpose of authorizing the County Commissioners of Somerset County to sell the Small Boat Harbor Dock to the City of Crisfield at private sale under certain terms; requiring the Small Boat Harbor Dock to revert to the County Commissioners under certain circumstances; exempting the sale of the Small Boat Harbor Dock from certain requirements; making a technical change; and generally relating to the sale of county property by the County Commissioners of Somerset County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Somerset County
Section 2–414
Article 20 – Public Local Laws of Maryland
(2003 Edition and 2009 Supplement, as amended)
(As enacted by Chapters 544 and 545 of the Acts of the General Assembly of 2011)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 20 – Somerset County

2–414.

(a) Subject to subsection (b) of this section, the County Commissioners may sell at private sale the following properties to the City of Crisfield under any terms that the County Commissioners **[**considers**]** **CONSIDER** appropriate:

(1) The property located at County Tax Map 101, Grid 8, Parcel 335, Account #07–113854 and described as 50 feet in width and approximates 200 feet in depth on the west side of Brick Kiln Road, also known as Collins Road, leading to the Small Boat Harbor;

(2) The portion of the roadway known as Wellington Road located in the Crisfield Election District beginning at the intersection of Collins Street and Wellington Road in a westerly direction 317 feet, more or less, a uniform width of 16 feet, more or less; **[**and**]**

(3) The property known as the County Boat Ramp located at the Small Boat Harbor in the City of Crisfield, described as the land located in the Crisfield Election District being known as the County Boat Ramp Property fronting 36 feet on Brick Kiln Road extending to the Harbor 53 feet**; AND**

(4) THE PROPERTY KNOWN AS THE SMALL BOAT HARBOR DOCK LOCATED AT THE SMALL BOAT HARBOR IN THE CITY OF CRISFIELD IN THE CRISFIELD ELECTION DISTRICT, FRONTING APPROXIMATELY 15 FEET ON BRICK KILN ROAD AND EXTENDING TO THE HARBOR APPROXIMATELY 63 FEET.

(b) A sale under this section shall require that the property reverts to the County Commissioners if the City of Crisfield:

(1) Attempts to restrict the public use of the property;

(2) Assesses any fees for the use of the property; or

(3) Attempts to transfer the property to any other person.

(c) The provisions of Article 25, § 11A of the Annotated Code of Maryland do not apply to a sale authorized under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 196

(Senate Bill 168)

AN ACT concerning

Estates and Trusts – Guardianship Accounts – Form and Limits

FOR the purpose of authorizing a guardian of the property of a minor ~~in a certain proceeding~~ or disabled person to petition ~~an orphans'~~ the court to deposit certain cash not exceeding a certain amount into a single restricted account; requiring certain excess amounts to be deposited into additional restricted accounts not exceeding a certain amount; prohibiting the aggregate amount deposited in any financial institution from exceeding a certain amount; authorizing a deposit under this Act to be made into ~~a certain type of account~~ certain types of accounts in certain financial institutions; and generally relating to guardianship accounts.

BY adding to
Article – Estates and Trusts
Section 13–209.1
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Estates and Trusts

13–209.1.

(A) ~~IN A PROCEEDING BEFORE AN ORPHANS' COURT, A~~ (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A GUARDIAN OF THE PROPERTY OF A MINOR OR DISABLED PERSON MAY PETITION THE COURT TO DEPOSIT CASH BELONGING TO THE MINOR OR DISABLED PERSON IN AN AMOUNT NOT EXCEEDING $200,000 INTO A SINGLE RESTRICTED ACCOUNT.

(2) (I) IF THE AMOUNT OF CASH BELONGING TO A MINOR OR DISABLED PERSON EXCEEDS $200,000, ANY EXCESS AMOUNT SHALL BE DEPOSITED INTO ADDITIONAL RESTRICTED ACCOUNTS.

(II) THE AMOUNT DEPOSITED IN AN ADDITIONAL RESTRICTED ACCOUNT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT EXCEED $200,000.

(III) THE AGGREGATE AMOUNT DEPOSITED IN ANY FINANCIAL INSTITUTION MAY NOT EXCEED $200,000.

(B) A DEPOSIT UNDER SUBSECTION (A) OF THIS SECTION MAY BE MADE INTO ANY TYPE OF ACCOUNT ~~AT A FEDERALLY INSURED FINANCIAL INSTITUTION~~, INCLUDING A CERTIFICATE OF DEPOSIT, IN A FINANCIAL INSTITUTION THAT:

(1) ACCEPTS DEPOSITS; AND

(2) (I) IS FEDERALLY INSURED; OR

(II) IS REGULATED BY THE COMMISSIONER OF FINANCIAL REGULATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 197

(Senate Bill 171)

AN ACT concerning

Election Law – Special Elections – Voting by Mail

FOR the purpose of altering certain provisions of law concerning voting by mail in special elections; authorizing the Governor, a county council, or a board of county commissioners to direct that voting by mail be utilized in certain special elections; specifying the application of certain provisions of law to a special election conducted by mail; requiring a local board of elections to mail a vote–by–mail ballot to each registered voter who is eligible to vote in a special election conducted by mail unless the voter has requested that the ballot be transmitted by other means; specifying that a voter is not required to submit an application to receive a vote–by–mail ballot; requiring a local board to send a vote–by–mail ballot to each eligible voter at least a certain number of days before the day of a special election; requiring that vote–by–mail ballots be mailed to the address on file in the statewide voter registration list for each eligible voter except in certain circumstances; requiring a local board to issue a replacement vote–by–mail ballot to a voter under certain circumstances; requiring each local board to establish at least one voting center for the use of any eligible voter who chooses to cast a ballot in person in a special election; specifying certain requirements for a voting center established by a local board; authorizing a local board to establish a voting center during a certain time period; providing that a certain process for applying in person for an absentee ballot at the office of a local board does not apply to a special election conducted by mail; providing that certain provisions of law relating to voting at a polling place on election day also apply to voting at a voting center established under this Act; requiring a voter to return a vote–by–mail ballot by certain methods; authorizing a voter to designate an agent to return a vote–by–mail ballot to a

local board; requiring that a vote–by–mail ballot be returned to a local board by certain deadlines and meet certain requirements to be considered timely and be counted; authorizing the State Board of Elections to adopt regulations as necessary to implement this Act; and generally relating to voting by mail in special elections.

BY ~~adding to~~ repealing and reenacting, with amendments,
Article – Election Law
Section ~~9–601 through 9–606 to be under the new~~ 9–501 through ~~9–506~~ *9–505* to be under the amended subtitle "Subtitle ~~6.~~ 5. Voting by Mail in Special Elections"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Election Law
Section 9–506
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~**Article – Election Law**~~

~~**SUBTITLE 6. VOTING BY MAIL IN SPECIAL ELECTIONS.**~~

~~**9–601.**~~

~~**(A) THIS SUBTITLE APPLIES ONLY TO A SPECIAL ELECTION THAT IS NOT HELD CONCURRENTLY WITH A REGULARLY SCHEDULED PRIMARY OR GENERAL ELECTION.**~~

~~**(B) THIS SUBTITLE DOES NOT APPLY TO A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL.**~~

~~**(C) VOTING BY MAIL MAY BE UTILIZED IN A SPECIAL ELECTION IN ACCORDANCE WITH THIS SUBTITLE.**~~

~~**(D) A SPECIAL ELECTION TO FILL A VACANCY IN THE OFFICE OF REPRESENTATIVE IN CONGRESS SHALL BE CONDUCTED BY MAIL IF THE GOVERNOR'S PROCLAMATION ISSUED UNDER § 8–710 OF THIS ARTICLE DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.**~~

~~**(E) (1) IN THIS SUBSECTION, "LOCAL SPECIAL ELECTION" MEANS A SPECIAL ELECTION TO:**~~

~~(I) FILL A VACANCY IN THE COUNTY COUNCIL OF A CHARTER COUNTY IF THE CHARTER OF THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;~~

~~(II) FILL A VACANCY IN THE BOARD OF COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IF A LOCAL LAW ENACTED BY THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;~~

~~(III) FILL A VACANCY IN A LOCAL BOARD OF EDUCATION IF STATE LAW PROVIDES FOR SPECIAL ELECTIONS;~~

~~(IV) ELECT MEMBERS OF A CHARTER BOARD OR SUBMIT A PROPOSED CHARTER TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE XI–A, § 1A OF THE MARYLAND CONSTITUTION; OR~~

~~(V) SUBMIT A LOCAL LAW ENACTED BY A CODE HOME RULE COUNTY TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE 25B, § 10(H) OF THE CODE.~~

~~(2) A LOCAL SPECIAL ELECTION SHALL BE CONDUCTED BY MAIL IF THE RESOLUTION OF THE COUNTY COUNCIL OR BOARD OF COUNTY COMMISSIONERS ESTABLISHING THE DATE OF THE SPECIAL ELECTION DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.~~

~~(F) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:~~

~~(1) PROVISIONS OF THIS ARTICLE RELATING TO ABSENTEE VOTING APPLY TO VOTING BY MAIL; AND~~

~~(2) LOCAL LAWS RELATING TO THE CONDUCT OF A SPECIAL ELECTION APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE.~~

~~(G) PROVISIONS OF THIS ARTICLE RELATING TO THE CONDUCT OF ELECTIONS APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE UNLESS A LAW SPECIFICALLY RELEVANT TO A SPECIAL ELECTION APPLIES.~~

~~9–602.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LOCAL BOARD SHALL MAIL BY NONFORWARDABLE MAIL A VOTE–BY–MAIL BALLOT TO EACH REGISTERED VOTER WHO IS ELIGIBLE TO VOTE IN A SPECIAL ELECTION.~~

~~(2) A LOCAL BOARD IS NOT REQUIRED TO MAIL A VOTE–BY–MAIL BALLOT TO A VOTER IF THE VOTER HAS REQUESTED THAT THE BALLOT BE TRANSMITTED BY OTHER MEANS.~~

~~(B) A VOTER IS NOT REQUIRED TO SUBMIT AN APPLICATION TO RECEIVE A VOTE–BY–MAIL BALLOT.~~

~~(C) A LOCAL BOARD SHALL SEND A VOTE–BY–MAIL BALLOT TO EACH ELIGIBLE VOTER AT LEAST 14 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VOTE–BY–MAIL BALLOT SHALL BE MAILED TO THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST FOR EACH ELIGIBLE VOTER.~~

~~(2) A REGISTERED VOTER MAY REQUEST TO RECEIVE A VOTE–BY–MAIL BALLOT AT AN ADDRESS OTHER THAN THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST BY:~~

~~(I) SUBMITTING AN ABSENTEE BALLOT APPLICATION IN ACCORDANCE WITH § 9–305(A) OF THIS TITLE NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER IS TEMPORARILY ABSENT FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST; OR~~

~~(II) NOTIFYING A LOCAL BOARD OF A CHANGE OF ADDRESS NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER'S RESIDENCE HAS CHANGED FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST TO ANOTHER LOCATION WITHIN THE STATE.~~

~~(E) A LOCAL BOARD SHALL ISSUE A REPLACEMENT VOTE–BY–MAIL BALLOT TO A VOTER IF THE LOCAL BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT A VOTE–BY–MAIL BALLOT PREVIOUSLY ISSUED TO THE VOTER HAS BEEN LOST, DESTROYED, SPOILED, OR NOT RECEIVED.~~

~~9–603.~~

~~(A) EACH LOCAL BOARD SHALL ESTABLISH AT LEAST ONE VOTING CENTER FOR THE USE OF ANY ELIGIBLE VOTER WHO CHOOSES TO CAST A BALLOT IN PERSON IN A SPECIAL ELECTION.~~

~~(B) A VOTING CENTER ESTABLISHED UNDER THIS SECTION SHALL:~~

~~(1) BE LOCATED AT A LOCAL BOARD OFFICE OR ANOTHER LOCATION WITHIN THE CONSTITUENCY WHERE THE SPECIAL ELECTION IS BEING HELD;~~

~~(2) PROVIDE ACCESS TO A VOTING SYSTEM THAT IS ACCESSIBLE TO VOTERS WITH DISABILITIES IN ACCORDANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT AND THE FEDERAL HELP AMERICA VOTE ACT;~~

~~(3) PROVIDE FOR PROVISIONAL VOTING IN ACCORDANCE WITH SUBTITLE 4 OF THIS TITLE;~~

~~(4) SATISFY THE REQUIREMENTS OF § 10–101 OF THIS ARTICLE; AND~~

~~(5) BE OPEN FOR VOTING EACH DAY BEGINNING 6 DAYS BEFORE THE DAY OF A SPECIAL ELECTION THROUGH THE DAY OF A SPECIAL ELECTION DURING THE HOURS BETWEEN:~~

~~(I) 10 A.M. AND 8 P.M. MONDAY THROUGH SATURDAY; AND~~

~~(II) 12 NOON AND 6 P.M. ON SUNDAY.~~

~~(C) IF NECESSARY TO EXPEDITE THE CONDUCT OF A SPECIAL ELECTION AND SUBJECT TO THE APPROVAL OF THE STATE BOARD, A LOCAL BOARD MAY ESTABLISH A VOTING CENTER UNDER THIS SECTION DURING A PERIOD WHEN A CHANGE IN POLLING PLACES IS PROHIBITED UNDER § 2–303 OF THIS ARTICLE.~~

~~(D) THE PROCESS FOR APPLYING IN PERSON FOR AN ABSENTEE BALLOT AT THE OFFICE OF A LOCAL BOARD UNDER § 9–305(C) OF THIS TITLE DOES NOT APPLY TO A SPECIAL ELECTION CONDUCTED BY MAIL.~~

~~(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY PROVISION OF THIS ARTICLE THAT APPLIES TO VOTING AT A POLLING PLACE ON ELECTION DAY ALSO APPLIES TO VOTING AT A VOTING CENTER ESTABLISHED UNDER THIS SECTION.~~

~~9–604.~~

~~(A) A VOTER MAY RETURN A VOTE–BY–MAIL BALLOT TO A LOCAL BOARD:~~

~~(1) BY MAIL;~~

~~(2) IN PERSON DURING REGULAR OFFICE HOURS; OR~~

~~(3) THROUGH A DULY AUTHORIZED AGENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(B) (1) A VOTER MAY DESIGNATE A DULY AUTHORIZED AGENT IN ACCORDANCE WITH § 9–307 OF THIS TITLE TO RETURN A VOTE–BY–MAIL BALLOT TO A LOCAL BOARD DURING REGULAR OFFICE HOURS.~~

~~(2) NOTWITHSTANDING § 9–307(B)(4)(I) OF THIS TITLE, AN AGENT IS REQUIRED ONLY TO:~~

~~(I) WITNESS THE VOTER MARK THE BALLOT AND PLACE IT IN AN ENVELOPE; AND~~

~~(II) RETURN THE BALLOT TO A LOCAL BOARD.~~

~~9–605.~~

~~(A) A VOTE–BY–MAIL BALLOT IS CONSIDERED TIMELY AND MAY BE COUNTED IF THE BALLOT:~~

~~(1) IS RETURNED IN PERSON TO THE OFFICE OF A LOCAL BOARD BY THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT NO LATER THAN 8 P.M. ON THE DAY OF A SPECIAL ELECTION; OR~~

~~(2) (I) IS RECEIVED BY MAIL BY A LOCAL BOARD NO LATER THAN 10 A.M. ON THE SECOND FRIDAY AFTER A SPECIAL ELECTION; AND~~

~~(II) WAS MAILED ON OR BEFORE ELECTION DAY, AS VERIFIED:~~

~~1. BY A POSTMARK; OR~~

~~2. IF THE RETURN ENVELOPE DOES NOT CONTAIN A POSTMARK OR THE POSTMARK IS ILLEGIBLE, BY THE VOTER'S AFFIDAVIT THAT THE BALLOT WAS MAILED ON OR BEFORE ELECTION DAY.~~

~~(B) A VOTE–BY–MAIL BALLOT THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IS NOT TIMELY AND MAY NOT BE COUNTED.~~

~~9–606.~~

~~THE STATE BOARD MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.~~

Article – Election Law

Subtitle 5. [Montgomery County] Voting by Mail **IN SPECIAL ELECTIONS**.

9–501.

(a) This subtitle applies only to a special election [for the Montgomery County Council] that is not held concurrently with a regularly scheduled primary or general election.

(b) Voting by mail may be utilized in a special election [for the Montgomery County Council] in accordance with this subtitle.

(C) A SPECIAL ELECTION TO FILL A VACANCY IN THE OFFICE OF REPRESENTATIVE IN CONGRESS SHALL BE CONDUCTED BY MAIL IF THE GOVERNOR'S PROCLAMATION ISSUED UNDER § 8–710 OF THIS ARTICLE DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.

(D) (1) IN THIS SUBSECTION, "LOCAL SPECIAL ELECTION" MEANS A SPECIAL ELECTION TO:

(I) FILL A VACANCY IN THE COUNTY COUNCIL OF A CHARTER COUNTY IF THE CHARTER OF THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;

(II) FILL A VACANCY IN THE BOARD OF COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IF A LOCAL LAW ENACTED BY THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;

(III) FILL A VACANCY IN THE BOARD OF COUNTY COMMISSIONERS OF A COMMISSION COUNTY IF A LAW PROVIDES FOR SPECIAL ELECTIONS;

(IV) FILL A VACANCY IN A LOCAL BOARD OF EDUCATION IF STATE LAW PROVIDES FOR SPECIAL ELECTIONS;

(V) ELECT MEMBERS OF A CHARTER BOARD OR SUBMIT A PROPOSED CHARTER TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE XI–A, § 1A OF THE MARYLAND CONSTITUTION; OR

(VI) SUBMIT A LOCAL LAW ENACTED BY A CODE HOME RULE COUNTY TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE 25B, § 10(H) OF THE CODE.

[(c)**]** **(2)** A **LOCAL** special election **[**to fill a vacancy in the Montgomery County Council**]** shall be conducted by mail if the resolution of the **[**Montgomery County Council**]** **COUNTY COUNCIL OR BOARD OF COUNTY COMMISSIONERS** establishing the date of the special election directs that the election be conducted by mail.

[(d)**]** **(E)** Except as otherwise provided in this subtitle:

(1) provisions of this article relating to absentee voting apply to voting by mail; and

(2) **[**county**]** **ALL PERTINENT STATE OR LOCAL** laws relating to the conduct of a **[**county council**]** special election apply to a special election conducted under this subtitle.

(e) Provisions of this article relating to the conduct of elections apply to a special election conducted under this subtitle, unless a law specifically relevant to a special election applies.

9–502.

(a) (1) Except as provided in paragraph (2) of this subsection, **[**the**]** **A** local board shall mail by nonforwardable mail a vote–by–mail ballot to each registered voter who is eligible to vote in a special election **[**for the Montgomery County Council**]**.

(2) **[**The**]** **A** local board is not required to mail a vote–by–mail ballot to a voter if the voter has requested that the ballot be sent by other means.

(b) A voter is not required to submit an application to receive a vote–by–mail ballot.

(c) (1) **[**Each**]** **IN MONTGOMERY COUNTY:**

(I) **EACH** vote–by–mail ballot shall be accompanied by a postage–paid envelope in which a voter may return the voted ballot to the local board**[**.**]**; **AND**

[(2)**]** **(II)** **[**The**]** **THE** local board shall pay the cost of postage–paid envelopes provided under this subsection.

(d) [The] **A** local board shall send a vote–by–mail ballot to each eligible voter at least 14 days before the day of a special election.

(e) (1) Except as provided in paragraph (2) of this subsection, a vote–by–mail ballot shall be mailed to the address that is on file in the statewide voter registration list for each eligible voter.

(2) A registered voter may request to receive a vote–by–mail ballot at an address other than the address that is on file in the statewide voter registration list by:

(i) submitting an absentee ballot application in accordance with § 9–305(a) of this title not later than the Tuesday preceding the day of a special election, if the voter is temporarily absent from the address that is on file in the statewide voter registration list; or

(ii) notifying a local board of a change of address not later than the Tuesday preceding the day of a special election, if the voter's residence has changed from the address that is on file in the statewide voter registration list to another location within the State.

(f) [The] **A** local board shall issue a replacement vote–by–mail ballot to a voter if the election director of the local board has reasonable grounds to believe that the vote–by–mail ballot previously issued to the voter has been lost, destroyed, [or] spoiled**, OR NOT RECEIVED**.

9–503.

(a) [The] **EACH** local board shall establish **AT LEAST ONE** voting [centers] **CENTER** for the use of any eligible voter who chooses to cast a ballot in person in a special election in accordance with this section.

(b) **(1) A VOTING CENTER SHALL BE LOCATED AT A LOCAL BOARD OFFICE OR ANOTHER LOCATION WITHIN THE CONSTITUENCY WHERE THE SPECIAL ELECTION IS BEING HELD.**

[(1)] **(2)** In **MONTGOMERY COUNTY:**

(I) **IN** a special election held in a single county council district, at least one voting center shall be established in the county council district where the special election is being held[.]**; AND**

[(2)] **(II)** [In] **IN** a countywide special election, at least one voting center shall be established in each county council district.

(c) A voting center established under this section shall:

(1) provide access to a voting system that is accessible to voters with disabilities in accordance with the federal Americans with Disabilities Act and the federal Help America Vote Act;

(2) provide for provisional voting in accordance with Subtitle 4 of this title;

(3) satisfy the requirements of § 10–101 of this article; and

(4) **(I) UNLESS OTHERWISE SPECIFIED IN THE PROCLAMATION ISSUED BY THE GOVERNOR THAT DIRECTS THAT THE SPECIAL ELECTION BE CONDUCTED BY MAIL, AND EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, BE OPEN FOR VOTING EACH DAY BEGINNING 6 DAYS BEFORE THE DAY OF A SPECIAL ELECTION THROUGH THE DAY OF A SPECIAL ELECTION DURING THE HOURS BETWEEN:**

1. 10 A.M. AND 8 P.M. MONDAY THROUGH SATURDAY; AND

2. 12 NOON TO 6 P.M. ON SUNDAY; AND

(II) IN MONTGOMERY COUNTY, be open for voting during the days and for the hours that the county council directs in the resolution under § ~~9–501(c)~~ ***9–501(D)(2)*** of this subtitle.

(d) If necessary to expedite the conduct of a special election and subject to the approval of the State Board, **[**the**] A** local board may establish a **[**polling place**] VOTING CENTER** under this section during a period when a change in polling places is prohibited under § 2–303 of this article.

(e) The process for applying in person for an absentee ballot at the office of a local board under § 9–305(c) of this title does not apply to a special election conducted by mail.

(f) Except as otherwise provided in this section, any provision of this article that applies to voting at a polling place on election day also applies to voting at a voting center established under this section.

9–504.

(a) A voter may return a vote–by–mail ballot to **[**the**] A** local board:

(1) by mail;

(2) in person during regular office hours; or

(3) through a duly authorized agent in accordance with subsection (b) of this section.

(b) (1) A voter may designate a duly authorized agent in accordance with § 9–307 of this title to return a vote–by–mail ballot to **[**the**]** **A** local board during regular office hours.

(2) Notwithstanding § 9–307(b)(4)(i) of this title, an agent is required only to:

(i) witness the voter mark the ballot and place it in an envelope; and

(ii) return the ballot to **[**the**]** **A** local board.

9–505.

(a) A vote–by–mail ballot is considered timely and may be counted if the ballot:

(1) is returned in person to the office of **[**the**]** **A** local board by the voter or the voter's duly authorized agent no later than 8 p.m. on the day of a special election; or

(2) (i) is received by mail by **[**the**]** **A** local board no later than 10 a.m. on the second Friday after a special election; and

(ii) was mailed on or before election day, as verified:

1. by a postmark; or

2. if the return envelope does not contain a postmark or the postmark is illegible, by the voter's affidavit that the ballot was mailed on or before election day.

(b) A vote–by–mail ballot that does not meet the requirements of subsection (a) of this section is not timely and may not be counted.

9–506.

The State Board may adopt regulations as necessary to implement this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 198

(House Bill 196)

AN ACT concerning

Election Law – Special Elections – Voting by Mail

FOR the purpose of altering certain provisions of law concerning voting by mail in special elections; authorizing the Governor, a county council, or a board of county commissioners to direct that voting by mail be utilized in certain special elections; specifying the application of certain provisions of law to a special election conducted by mail; requiring a local board of elections to mail a vote–by–mail ballot to each registered voter who is eligible to vote in a special election conducted by mail unless the voter has requested that the ballot be transmitted by other means; specifying that a voter is not required to submit an application to receive a vote–by–mail ballot; requiring a local board to send a vote–by–mail ballot to each eligible voter at least a certain number of days before the day of a special election; requiring that vote–by–mail ballots be mailed to the address on file in the statewide voter registration list for each eligible voter except in certain circumstances; requiring a local board to issue a replacement vote–by–mail ballot to a voter under certain circumstances; requiring each local board to establish at least one voting center for the use of any eligible voter who chooses to cast a ballot in person in a special election; specifying certain requirements for a voting center established by a local board; authorizing a local board to establish a voting center during a certain time period; providing that a certain process for applying in person for an absentee ballot at the office of a local board does not apply to a special election conducted by mail; providing that certain provisions of law relating to voting at a polling place on election day also apply to voting at a voting center established under this Act; requiring a voter to return a vote–by–mail ballot by certain methods; authorizing a voter to designate an agent to return a vote–by–mail ballot to a local board; requiring that a vote–by–mail ballot be returned to a local board by certain deadlines and meet certain requirements to be considered timely and be counted; authorizing the State Board of Elections to adopt regulations as necessary to implement this Act; and generally relating to voting by mail in special elections.

BY ~~adding to~~ repealing and reenacting, with amendments,
Article – Election Law
Section ~~9–601 through 9–606 to be under the new~~ 9–501 through 9–505 to be under the amended subtitle "Subtitle ~~6.~~ 5. Voting by Mail in Special Elections"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Election Law
Section 9–506
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~**Article – Election Law**~~

~~**SUBTITLE 6. VOTING BY MAIL IN SPECIAL ELECTIONS.**~~

~~**9–601.**~~

~~**(A) THIS SUBTITLE APPLIES ONLY TO A SPECIAL ELECTION THAT IS NOT HELD CONCURRENTLY WITH A REGULARLY SCHEDULED PRIMARY OR GENERAL ELECTION.**~~

~~**(B) THIS SUBTITLE DOES NOT APPLY TO A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL.**~~

~~**(C) VOTING BY MAIL MAY BE UTILIZED IN A SPECIAL ELECTION IN ACCORDANCE WITH THIS SUBTITLE.**~~

~~**(D) A SPECIAL ELECTION TO FILL A VACANCY IN THE OFFICE OF REPRESENTATIVE IN CONGRESS SHALL BE CONDUCTED BY MAIL IF THE GOVERNOR'S PROCLAMATION ISSUED UNDER § 8–710 OF THIS ARTICLE DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.**~~

~~**(E) (1) IN THIS SUBSECTION, "LOCAL SPECIAL ELECTION" MEANS A SPECIAL ELECTION TO:**~~

~~**(I) FILL A VACANCY IN THE COUNTY COUNCIL OF A CHARTER COUNTY IF THE CHARTER OF THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;**~~

~~**(II) FILL A VACANCY IN THE BOARD OF COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IF A LOCAL LAW ENACTED BY THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;**~~

~~**(III) FILL A VACANCY IN A LOCAL BOARD OF EDUCATION IF STATE LAW PROVIDES FOR SPECIAL ELECTIONS;**~~

~~(IV) ELECT MEMBERS OF A CHARTER BOARD OR SUBMIT A PROPOSED CHARTER TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE XI–A, § 1A OF THE MARYLAND CONSTITUTION; OR~~

~~(V) SUBMIT A LOCAL LAW ENACTED BY A CODE HOME RULE COUNTY TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE 25B, § 10(H) OF THE CODE.~~

~~(2) A LOCAL SPECIAL ELECTION SHALL BE CONDUCTED BY MAIL IF THE RESOLUTION OF THE COUNTY COUNCIL OR BOARD OF COUNTY COMMISSIONERS ESTABLISHING THE DATE OF THE SPECIAL ELECTION DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.~~

~~(F) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:~~

~~(1) PROVISIONS OF THIS ARTICLE RELATING TO ABSENTEE VOTING APPLY TO VOTING BY MAIL; AND~~

~~(2) LOCAL LAWS RELATING TO THE CONDUCT OF A SPECIAL ELECTION APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE.~~

~~(G) PROVISIONS OF THIS ARTICLE RELATING TO THE CONDUCT OF ELECTIONS APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE UNLESS A LAW SPECIFICALLY RELEVANT TO A SPECIAL ELECTION APPLIES.~~

~~9–602.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LOCAL BOARD SHALL MAIL BY NONFORWARDABLE MAIL A VOTE–BY–MAIL BALLOT TO EACH REGISTERED VOTER WHO IS ELIGIBLE TO VOTE IN A SPECIAL ELECTION.~~

~~(2) A LOCAL BOARD IS NOT REQUIRED TO MAIL A VOTE–BY–MAIL BALLOT TO A VOTER IF THE VOTER HAS REQUESTED THAT THE BALLOT BE TRANSMITTED BY OTHER MEANS.~~

~~(B) A VOTER IS NOT REQUIRED TO SUBMIT AN APPLICATION TO RECEIVE A VOTE–BY–MAIL BALLOT.~~

~~(C) A LOCAL BOARD SHALL SEND A VOTE–BY–MAIL BALLOT TO EACH ELIGIBLE VOTER AT LEAST 14 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VOTE–BY–MAIL BALLOT SHALL BE MAILED TO THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST FOR EACH ELIGIBLE VOTER.~~

~~(2) A REGISTERED VOTER MAY REQUEST TO RECEIVE A VOTE–BY–MAIL BALLOT AT AN ADDRESS OTHER THAN THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST BY:~~

~~(I) SUBMITTING AN ABSENTEE BALLOT APPLICATION IN ACCORDANCE WITH § 9–305(A) OF THIS TITLE NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER IS TEMPORARILY ABSENT FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST; OR~~

~~(II) NOTIFYING A LOCAL BOARD OF A CHANGE OF ADDRESS NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER'S RESIDENCE HAS CHANGED FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST TO ANOTHER LOCATION WITHIN THE STATE.~~

~~(E) A LOCAL BOARD SHALL ISSUE A REPLACEMENT VOTE–BY–MAIL BALLOT TO A VOTER IF THE LOCAL BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT A VOTE–BY–MAIL BALLOT PREVIOUSLY ISSUED TO THE VOTER HAS BEEN LOST, DESTROYED, SPOILED, OR NOT RECEIVED.~~

~~9–603.~~

~~(A) EACH LOCAL BOARD SHALL ESTABLISH AT LEAST ONE VOTING CENTER FOR THE USE OF ANY ELIGIBLE VOTER WHO CHOOSES TO CAST A BALLOT IN PERSON IN A SPECIAL ELECTION.~~

~~(B) A VOTING CENTER ESTABLISHED UNDER THIS SECTION SHALL:~~

~~(1) BE LOCATED AT A LOCAL BOARD OFFICE OR ANOTHER LOCATION WITHIN THE CONSTITUENCY WHERE THE SPECIAL ELECTION IS BEING HELD;~~

~~(2) PROVIDE ACCESS TO A VOTING SYSTEM THAT IS ACCESSIBLE TO VOTERS WITH DISABILITIES IN ACCORDANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT AND THE FEDERAL HELP AMERICA VOTE ACT;~~

~~(3) PROVIDE FOR PROVISIONAL VOTING IN ACCORDANCE WITH SUBTITLE 4 OF THIS TITLE;~~

~~(4) SATISFY THE REQUIREMENTS OF § 10–101 OF THIS ARTICLE; AND~~

~~(5) BE OPEN FOR VOTING EACH DAY BEGINNING 6 DAYS BEFORE THE DAY OF A SPECIAL ELECTION THROUGH THE DAY OF A SPECIAL ELECTION DURING THE HOURS BETWEEN:~~

~~(I) 10 A.M. AND 8 P.M. MONDAY THROUGH SATURDAY; AND~~

~~(II) 12 NOON AND 6 P.M. ON SUNDAY.~~

~~(C) IF NECESSARY TO EXPEDITE THE CONDUCT OF A SPECIAL ELECTION AND SUBJECT TO THE APPROVAL OF THE STATE BOARD, A LOCAL BOARD MAY ESTABLISH A VOTING CENTER UNDER THIS SECTION DURING A PERIOD WHEN A CHANGE IN POLLING PLACES IS PROHIBITED UNDER § 2–303 OF THIS ARTICLE.~~

~~(D) THE PROCESS FOR APPLYING IN PERSON FOR AN ABSENTEE BALLOT AT THE OFFICE OF A LOCAL BOARD UNDER § 9–305(C) OF THIS TITLE DOES NOT APPLY TO A SPECIAL ELECTION CONDUCTED BY MAIL.~~

~~(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY PROVISION OF THIS ARTICLE THAT APPLIES TO VOTING AT A POLLING PLACE ON ELECTION DAY ALSO APPLIES TO VOTING AT A VOTING CENTER ESTABLISHED UNDER THIS SECTION.~~

~~9–604.~~

~~(A) A VOTER MAY RETURN A VOTE–BY–MAIL BALLOT TO A LOCAL BOARD:~~

~~(1) BY MAIL;~~

~~(2) IN PERSON DURING REGULAR OFFICE HOURS; OR~~

~~(3) THROUGH A DULY AUTHORIZED AGENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(B) (1) A VOTER MAY DESIGNATE A DULY AUTHORIZED AGENT IN ACCORDANCE WITH § 9–307 OF THIS TITLE TO RETURN A VOTE–BY–MAIL BALLOT TO A LOCAL BOARD DURING REGULAR OFFICE HOURS.~~

~~(2) NOTWITHSTANDING § 9–307(B)(4)(I) OF THIS TITLE, AN AGENT IS REQUIRED ONLY TO:~~

~~(I) WITNESS THE VOTER MARK THE BALLOT AND PLACE IT IN AN ENVELOPE; AND~~

~~(II) RETURN THE BALLOT TO A LOCAL BOARD.~~

~~9–605.~~

~~(A) A VOTE–BY–MAIL BALLOT IS CONSIDERED TIMELY AND MAY BE COUNTED IF THE BALLOT:~~

~~(1) IS RETURNED IN PERSON TO THE OFFICE OF A LOCAL BOARD BY THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT NO LATER THAN 8 P.M. ON THE DAY OF A SPECIAL ELECTION; OR~~

~~(2) (I) IS RECEIVED BY MAIL BY A LOCAL BOARD NO LATER THAN 10 A.M. ON THE SECOND FRIDAY AFTER A SPECIAL ELECTION; AND~~

~~(II) WAS MAILED ON OR BEFORE ELECTION DAY, AS VERIFIED:~~

~~1. BY A POSTMARK; OR~~

~~2. IF THE RETURN ENVELOPE DOES NOT CONTAIN A POSTMARK OR THE POSTMARK IS ILLEGIBLE, BY THE VOTER'S AFFIDAVIT THAT THE BALLOT WAS MAILED ON OR BEFORE ELECTION DAY.~~

~~(B) A VOTE–BY–MAIL BALLOT THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IS NOT TIMELY AND MAY NOT BE COUNTED.~~

~~9–606.~~

~~THE STATE BOARD MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.~~

Article – Election Law

Subtitle 5. **[**Montgomery County**]** Voting by Mail **IN SPECIAL ELECTIONS**.

9–501.

(a) This subtitle applies only to a special election [for the Montgomery County Council] that is not held concurrently with a regularly scheduled primary or general election.

(b) Voting by mail may be utilized in a special election [for the Montgomery County Council] in accordance with this subtitle.

(C) A SPECIAL ELECTION TO FILL A VACANCY IN THE OFFICE OF REPRESENTATIVE IN CONGRESS SHALL BE CONDUCTED BY MAIL IF THE GOVERNOR'S PROCLAMATION ISSUED UNDER § 8–710 OF THIS ARTICLE DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.

(D) (1) IN THIS SUBSECTION, "LOCAL SPECIAL ELECTION" MEANS A SPECIAL ELECTION TO:

(I) FILL A VACANCY IN THE COUNTY COUNCIL OF A CHARTER COUNTY IF THE CHARTER OF THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;

(II) FILL A VACANCY IN THE BOARD OF COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IF A LOCAL LAW ENACTED BY THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;

(III) FILL A VACANCY IN THE BOARD OF COUNTY COMMISSIONERS OF A COMMISSION COUNTY IF A LAW PROVIDES FOR SPECIAL ELECTIONS;

(IV) FILL A VACANCY IN A LOCAL BOARD OF EDUCATION IF STATE LAW PROVIDES FOR SPECIAL ELECTIONS;

(V) ELECT MEMBERS OF A CHARTER BOARD OR SUBMIT A PROPOSED CHARTER TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE XI–A, § 1A OF THE MARYLAND CONSTITUTION; OR

(VI) SUBMIT A LOCAL LAW ENACTED BY A CODE HOME RULE COUNTY TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE 25B, § 10(H) OF THE CODE.

[(c)] **(2)** A **LOCAL** special election [to fill a vacancy in the Montgomery County Council] shall be conducted by mail if the resolution of the [Montgomery County Council] **COUNTY COUNCIL OR BOARD OF COUNTY COMMISSIONERS** establishing the date of the special election directs that the election be conducted by mail.

[(d)] **(E)** Except as otherwise provided in this subtitle:

(1) provisions of this article relating to absentee voting apply to voting by mail; and

(2) [county] **ALL PERTINENT STATE OR LOCAL** laws relating to the conduct of a [county council] special election apply to a special election conducted under this subtitle.

(e) Provisions of this article relating to the conduct of elections apply to a special election conducted under this subtitle, unless a law specifically relevant to a special election applies.

9–502.

(a) (1) Except as provided in paragraph (2) of this subsection, [the] **A** local board shall mail by nonforwardable mail a vote–by–mail ballot to each registered voter who is eligible to vote in a special election [for the Montgomery County Council].

(2) [The] **A** local board is not required to mail a vote–by–mail ballot to a voter if the voter has requested that the ballot be sent by other means.

(b) A voter is not required to submit an application to receive a vote–by–mail ballot.

(c) (1) [Each] **IN MONTGOMERY COUNTY:**

(I) **EACH** vote–by–mail ballot shall be accompanied by a postage–paid envelope in which a voter may return the voted ballot to the local board[.]**; AND**

[(2)] **(II)** [The] **THE** local board shall pay the cost of postage–paid envelopes provided under this subsection.

(d) [The] **A** local board shall send a vote–by–mail ballot to each eligible voter at least 14 days before the day of a special election.

(e) (1) Except as provided in paragraph (2) of this subsection, a vote–by–mail ballot shall be mailed to the address that is on file in the statewide voter registration list for each eligible voter.

(2) A registered voter may request to receive a vote–by–mail ballot at an address other than the address that is on file in the statewide voter registration list by:

(i) submitting an absentee ballot application in accordance with § 9–305(a) of this title not later than the Tuesday preceding the day of a special election, if the voter is temporarily absent from the address that is on file in the statewide voter registration list; or

(ii) notifying a local board of a change of address not later than the Tuesday preceding the day of a special election, if the voter's residence has changed from the address that is on file in the statewide voter registration list to another location within the State.

(f) **[**The**]** **A** local board shall issue a replacement vote–by–mail ballot to a voter if the election director of the local board has reasonable grounds to believe that the vote–by–mail ballot previously issued to the voter has been lost, destroyed, **[**or**]** spoiled**, OR NOT RECEIVED**.

9–503.

(a) **[**The**]** **EACH** local board shall establish **AT LEAST ONE** voting **[**centers**]** **CENTER** for the use of any eligible voter who chooses to cast a ballot in person in a special election in accordance with this section.

(b) **(1)** **A VOTING CENTER SHALL BE LOCATED AT A LOCAL BOARD OFFICE OR ANOTHER LOCATION WITHIN THE CONSTITUENCY WHERE THE SPECIAL ELECTION IS BEING HELD.**

[(1)**]** **(2)** In **MONTGOMERY COUNTY:**

(I) **IN** a special election held in a single county council district, at least one voting center shall be established in the county council district where the special election is being held**[**.**]**; **AND**

[(2)**]** **(II)** **[**In**]** **IN** a countywide special election, at least one voting center shall be established in each county council district.

(c) A voting center established under this section shall:

(1) provide access to a voting system that is accessible to voters with disabilities in accordance with the federal Americans with Disabilities Act and the federal Help America Vote Act;

(2) provide for provisional voting in accordance with Subtitle 4 of this title;

(3) satisfy the requirements of § 10–101 of this article; and

(4) **(I) UNLESS OTHERWISE SPECIFIED IN THE PROCLAMATION ISSUED BY THE GOVERNOR THAT DIRECTS THAT THE SPECIAL ELECTION BE CONDUCTED BY MAIL, AND EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, BE OPEN FOR VOTING EACH DAY BEGINNING 6 DAYS BEFORE THE DAY OF A SPECIAL ELECTION THROUGH THE DAY OF A SPECIAL ELECTION DURING THE HOURS BETWEEN:**

1. 10 A.M. AND 8 P.M. MONDAY THROUGH SATURDAY; AND

2. 12 NOON TO 6 P.M. ON SUNDAY; AND

(II) IN MONTGOMERY COUNTY, be open for voting during the days and for the hours that the county council directs in the resolution under § ~~9–501(e)~~ ***9–501(D)(2)*** of this subtitle.

(d) If necessary to expedite the conduct of a special election and subject to the approval of the State Board, **[**the**] A** local board may establish a **[**polling place**] VOTING CENTER** under this section during a period when a change in polling places is prohibited under § 2–303 of this article.

(e) The process for applying in person for an absentee ballot at the office of a local board under § 9–305(c) of this title does not apply to a special election conducted by mail.

(f) Except as otherwise provided in this section, any provision of this article that applies to voting at a polling place on election day also applies to voting at a voting center established under this section.

9–504.

(a) A voter may return a vote–by–mail ballot to **[**the**] A** local board:

(1) by mail;

(2) in person during regular office hours; or

(3) through a duly authorized agent in accordance with subsection (b) of this section.

(b) (1) A voter may designate a duly authorized agent in accordance with § 9–307 of this title to return a vote–by–mail ballot to **[**the**] A** local board during regular office hours.

(2) Notwithstanding § 9–307(b)(4)(i) of this title, an agent is required only to:

(i) witness the voter mark the ballot and place it in an envelope; and

(ii) return the ballot to **[**the**]** **A** local board.

9–505.

(a) A vote–by–mail ballot is considered timely and may be counted if the ballot:

(1) is returned in person to the office of **[**the**]** **A** local board by the voter or the voter's duly authorized agent no later than 8 p.m. on the day of a special election; or

(2) (i) is received by mail by **[**the**]** **A** local board no later than 10 a.m. on the second Friday after a special election; and

(ii) was mailed on or before election day, as verified:

1. by a postmark; or

2. if the return envelope does not contain a postmark or the postmark is illegible, by the voter's affidavit that the ballot was mailed on or before election day.

(b) A vote–by–mail ballot that does not meet the requirements of subsection (a) of this section is not timely and may not be counted.

9–506.

The State Board may adopt regulations as necessary to implement this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 199

(Senate Bill 175)

AN ACT concerning

State Government – Commemorative Days – Maryland Centenarians Day

FOR the purpose of requiring the Governor annually to proclaim a certain day as Maryland Centenarians Day; and generally relating to commemorative days.

BY adding to
Article – State Government
Section 13–411
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

13–411.

IN RECOGNITION OF THE LIVES OF THE STATE'S CITIZENS WHO HAVE REACHED THE LANDMARK AGE OF 100 YEARS, THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND THURSDAY IN MAY AS MARYLAND CENTENARIANS DAY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 200

(Senate Bill 188)

AN ACT concerning

Minority Business Enterprises – *Participation and* Goals and Subgoals

FOR the purpose of requiring the ~~Procurement Advisor to conduct an examination concerning the process by which the heads of units and their procurement officers, in consultation with the Special Secretary of Minority Affairs, the Secretary of Transportation, and the Attorney General, sets certain goals and subgoals for participation of certain minority groups in State procurement; specifying certain factors to be considered during the examination; requiring the Procurement Advisor to report certain findings on or before a certain date; and generally relating to the setting of goals and subgoals for participation of certain minority groups in State procurement~~ Special Secretary of Minority

Affairs, in consultation with the Secretary of Transportation and the Attorney General, to establish guidelines for certain units of State government to consider when determining the appropriate minority business enterprise participation percentage goal for certain procurements; making certain conforming changes; *altering the termination date for certain provisions of law concerning the minority business enterprise program; altering the dates by which the certification agency designated by the Board of Public Works for the minority business enterprise program, in consultation with the General Assembly and the Office of the Attorney General, to conduct a certain evaluation of the minority business program;* and generally relating to minority business enterprise participation *and* percentage goals and subgoals for certain procurements.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 12–102
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – State Finance and Procurement~~
~~Section 14–302(a)(1)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–302 ~~and 14–303~~, *14–303, and 14–309*
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 154 of the Acts of the General Assembly of 2012
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

12–102.

(a) (1) The Board shall appoint a Procurement Advisor, who serves at the pleasure of the Board.

(2) The Procurement Advisor shall:

(i) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;

(ii) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in the management of the State procurement system;

(iii) examine all procurements that are subject to review by the Board and make recommendations to the Board as to the appropriateness of each procurement, with an emphasis on whether the proposed procurement:

1. has been competitively conducted; and

2. conforms to provisions of procurement law, procurement regulations, and best management practices;

(iv) prevent and detect fraud, waste, and abuse and foster competition in the expenditure of State funds in the procurement of supplies, services, or construction;

(v) conduct investigations into procurement policies, practices, and procedures, as appropriate;

(vi) investigate complaints made by State employees concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;

(vii) investigate complaints, other than formal bid protests filed under Title 15, Subtitle 2 of this article, made by contractors and other interested parties concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;

(viii) if apparent criminal violations are found in the course of an investigation, report findings to the Board of Public Works, Office of the Attorney General, United States Attorney, and State or local prosecutors, as appropriate;

(ix) if other apparent violations of law or regulation are found in the course of an investigation, report findings to the Board of Public Works, the appropriate agency head, and any other appropriate body for administrative action;

(x) produce and submit to the Board of Public Works and the General Assembly, in accordance with § 2–1246 of the State Government Article, an annual report of the activities of the Procurement Advisor, including:

1. all findings and recommendations for improvements to the procurement system; and

2. the identification of barriers to effective broad–based competition in State procurement and recommendations for the elimination of these barriers;

(xi) assist agencies and the public with questions regarding procurement policy;

(xii) establish policies for the effective training of State procurement officials to ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;

(xiii) coordinate activities with other entities performing similar functions;

(xiv) review internal audit reports and comment as appropriate;

(xv) be the principal staff to the Procurement Advisory Council; and

(xvi) notify the Legislative Auditor when the Procurement Advisor undertakes an investigation under item (vi) or (vii) of this paragraph.

(3) The Procurement Advisor shall:

(i) have access to all books, accounts, records, reports, any material related to contracts and procurement, and all other papers and equipment necessary to carry out its responsibilities; and

(ii) have direct and prompt access to all heads of agencies involved in the expenditure of public funds.

(b) (1) (i) The Board shall appoint a General Counsel, who serves at the pleasure of the Board.

(ii) The General Counsel shall be an attorney in this State.

(2) The General Counsel shall:

(i) provide independent legal advice to the Board;

(ii) examine all procurements that are subject to review by the Board and make recommendations to the Board as to the legal sufficiency of the procurements, with an emphasis on whether the proposed procurement has been competitively conducted;

(iii) assist the Procurement Advisor in investigations undertaken by the Procurement Advisor;

(iv) assist the Procurement Advisor in responding to complaints made by State employees, contractors, and other interested parties concerning fraud, waste, and abuse in the procurement process or any alleged violation of the procurement law and regulations;

(v) compile information for distribution to State procurement officials relating to recent decisions of the Maryland State Board of Contract Appeals and State and federal courts concerning procurement, including any policy or legal guidance to the procurement officials based on these decisions; and

(vi) review regulations proposed by the Board for legality and approve them for proposal and adoption.

(3) The General Counsel shall:

(i) have access to all books, accounts, records, any material related to contracts and procurement, and all other papers and equipment necessary to carry out its responsibilities; and

(ii) have direct and prompt access to all heads of agencies involved in the expenditure of public funds.

(c) In accordance with the State budget, the Board may appoint any additional staff necessary to carry out its responsibilities under this Division II.

~~14–302.~~

~~(a) (1) (i) Except for leases of real property, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve an overall percentage goal of the unit's total dollar value of procurement contracts being made directly or indirectly to certified minority business enterprises.~~

~~(ii) 1. The overall percentage goal shall be established on a biennial basis by the Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General.~~

~~2. During any year in which there is a delay in establishing the overall goal, the previous year's goal will apply.~~

~~(iii) 1. In consultation with the Secretary of Transportation and the Attorney General, the Special Secretary of Minority Affairs shall establish guidelines on a biennial basis for each unit to consider while determining whether to set subgoals for the minority groups listed in § 14–301(j)(1)(i)1, 2, 3, 4, and 6 of this subtitle.~~

~~2. During any year in which there is a delay in establishing the subgoal guidelines, the previous year's subgoal guidelines will apply.~~

~~(iv) 1. The Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish goals and subgoal guidelines that, to the maximum extent feasible, approximate the level of minority business enterprise participation that would be expected in the absence of discrimination.~~

~~2. In establishing overall goals and subgoal guidelines, the Special Secretary of Minority Affairs shall provide for public participation by consulting with minority, women's, and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning:~~

~~A. the availability of minority– and women–owned businesses;~~

~~B. the effects of discrimination on opportunities for minority– and women–owned businesses; and~~

~~C. the State's operation of the Minority Business Enterprise Program.~~

~~(v) In establishing overall goals, the factors to be considered shall include:~~

~~1. the relative availability of minority– and women–owned businesses to participate in State procurement as demonstrated by the State's most recent disparity study;~~

~~2. past participation of minority business enterprises in State procurement, except for procurement related to leases of real property; and~~

~~3. other factors that contribute to constitutional goal setting.~~

~~(vi) Notwithstanding § 12–101 of this article, the Special Secretary of Minority Affairs shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article setting forth the State's overall goal.~~

14–302.

(a) (1) (i) Except for leases of real property, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve an overall percentage goal of the unit's total dollar value of procurement contracts being made directly or indirectly to certified minority business enterprises.

(ii) 1. The overall percentage goal shall be established on a biennial basis by the Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General.

2. During any year in which there is a delay in establishing the overall goal, the previous year's goal will apply.

(iii) 1. In consultation with the Secretary of Transportation and the Attorney General, the Special Secretary of Minority Affairs shall establish guidelines on a biennial basis for each unit to consider while determining whether to set subgoals for the minority groups listed in § 14–301(j)(1)(i)1, 2, 3, 4, and 6 of this subtitle.

2. During any year in which there is a delay in establishing the subgoal guidelines, the previous year's subgoal guidelines will apply.

(iv) 1. The Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish goals and subgoal guidelines that, to the maximum extent feasible, approximate the level of minority business enterprise participation that would be expected in the absence of discrimination.

2. In establishing overall goals and subgoal guidelines, the Special Secretary of Minority Affairs shall provide for public participation by consulting with minority, women's, and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning:

A. the availability of minority– and women–owned businesses;

B. the effects of discrimination on opportunities for minority– and women–owned businesses; and

C. the State's operation of the Minority Business Enterprise Program.

(v) In establishing overall goals, the factors to be considered shall include:

1. the relative availability of minority– and women–owned businesses to participate in State procurement as demonstrated by the State's most recent disparity study;

2. past participation of minority business enterprises in State procurement, except for procurement related to leases of real property; and

3. other factors that contribute to constitutional goal setting.

(vi) Notwithstanding § 12–101 of this article, the Special Secretary of Minority Affairs shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article setting forth the State's overall goal.

(2) THE SPECIAL SECRETARY OF MINORITY AFFAIRS, IN CONSULTATION WITH THE SECRETARY OF TRANSPORTATION AND THE ATTORNEY GENERAL, SHALL ESTABLISH GUIDELINES FOR EACH UNIT TO CONSIDER WHEN DETERMINING THE APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION PERCENTAGE GOAL FOR A PROCUREMENT CONTRACT IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

[(2)**] (3)** Each unit shall:

(i) consider the practical severability of all contracts and, in accordance with § 11–201 of this article, may not bundle contracts;

(ii) implement a program that will enable the unit to evaluate each contract to determine the appropriate minority business enterprise participation goals, if any, for the contract based on:

1. the potential subcontract opportunities available in the prime procurement contract;

2. the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

3. THE CONTRACT GOAL GUIDELINES ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION;

[3.**] 4.** the **SUBGOAL** guidelines established under paragraph ~~(1)(ii)~~ ***(1)(III)*** of this subsection; and

[4.**] 5.** other factors that contribute to constitutional goal setting;

(iii) monitor and collect data with respect to prime contractor compliance with contract goals; and

(iv) institute corrective action when prime contractors do not make good–faith efforts to comply with contract goals.

[(3)**]** **(4)** Units may not use quotas or any project goal–setting process that:

(i) solely relies on the State's overall numerical goal, or any other jurisdiction's overall numerical goal; or

(ii) fails to incorporate the analysis outlined in paragraph (2)(ii) of this subsection.

[(4)**]** **(5)** (i) A woman who is also a member of an ethnic or racial minority group may be certified in that category in addition to the gender category.

(ii) For purposes of achieving the goals in this subsection, a certified minority business enterprise may participate in a procurement contract and be counted as a woman–owned business, or as a business owned by a member of an ethnic or racial group, but not both, if the business has been certified in both categories.

[(5)**]** **(6)** Each unit shall meet the maximum feasible portion of the State's overall goal established in accordance with this subsection by using race–neutral measures to facilitate minority business enterprise participation in the procurement process.

[(6)**]** **(7)** If a unit establishes minority business enterprise participation goals for a contract, a contractor, including a contractor that is a certified minority business enterprise, shall:

(i) identify specific work categories appropriate for subcontracting;

(ii) at least 10 days before bid opening, solicit minority business enterprises, through written notice that:

1. describes the categories of work under item (i) of this paragraph; and

2. provides information regarding the type of work being solicited and specific instructions on how to submit a bid;

(iii) attempt to make personal contact with the firms in item (ii) of this paragraph;

(iv) offer to provide reasonable assistance to minority business enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

(v) in order to publicize contracting opportunities to minority business enterprises, attend prebid or preproposal meetings or other meetings scheduled by the unit; and

(vi) upon acceptance of a bid or proposal, provide the unit with a list of minority businesses with whom the contractor negotiated, including price quotes from minority and nonminority firms.

[(7)**]** **(8)** The Special Secretary of Minority Affairs shall:

(i) in consultation with the Secretary of Transportation and the Attorney General, establish procedures governing how the participation of minority business enterprise prime contractors is counted toward contract goals; and

(ii) notwithstanding § 12–101 of this article, adopt regulations setting forth the procedures established in accordance with this paragraph.

[(8)**]** **(9)** (i) 1. If a contractor, including a certified minority business enterprise, does not achieve all or a part of the minority business enterprise participation goals on a contract, the unit shall make a finding of whether the contractor has demonstrated that the contractor took all necessary and reasonable steps to achieve the goals, including compliance with paragraph (6) of this subsection.

2. A waiver of any part of the minority business enterprise goals for a contract shall be granted if a contractor provides a reasonable demonstration of good–faith efforts to achieve the goals.

(ii) If the unit determines that a waiver should be granted in accordance with subparagraph (i) of this paragraph, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.

(iii) The head of the unit may waive any of the requirements of this subsection relating to the establishment, use, and waiver of contract goals for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those requirements.

(iv) 1. Except for waivers granted in accordance with subparagraph (iii) of this paragraph, when a waiver determination is made, the unit shall issue the determination in writing.

2. The head of the unit shall:

A. keep one copy of the waiver determination and the reasons for the determination; and

B. forward one copy of the waiver determination to the Governor's Office of Minority Affairs.

(v) On or before July 31 of each year, each unit shall submit directly to the Board of Public Works and the Governor's Office of Minority Affairs an annual report of waivers requested and waivers granted under this paragraph.

(vi) The report required under subparagraph (v) of this paragraph shall contain the following information on those contracts where the unit considered a contractor's request for waiver of all or a portion of the minority business enterprise goals:

1. the contract titles, numbers, and dates;

2. the number of waiver requests received;

3. the number of waiver requests granted; and

4. any other information specifically requested by the Board.

[(9)**]** **(10)** (i) 1. This paragraph applies to a bidder or offeror after submission of a bid or proposal and before the execution of a contract with an expected degree of minority business enterprise participation.

2. If the bidder or offeror determines that a minority business enterprise identified in the minority business enterprise participation schedule has become or will become unavailable or ineligible to perform the work required under the contract, the bidder or offeror shall notify the unit within 72 hours of making the determination.

(ii) 1. If a minority business enterprise identified in the minority business enterprise participation schedule submitted with a bid or offer has become or will become unavailable or ineligible to perform the work required under the contract, the bidder or offeror may submit a written request with the unit to amend the minority business enterprise participation schedule.

2. The request to amend the minority business enterprise participation schedule shall indicate the bidder's or offeror's efforts to substitute another certified minority business enterprise to perform the work that the unavailable or ineligible minority business enterprise would have performed.

(iii) A minority business enterprise participation schedule may not be amended unless:

1. the bidder or offeror provides a satisfactory explanation of the reason for inclusion of the unavailable or ineligible firm on the minority business enterprise participation schedule; and

2. the amendment is approved by the unit's procurement officer after consulting with the unit's minority business enterprise liaison.

[(10)**] (11)** (i) This paragraph applies after execution of a contract with an expected degree of minority business enterprise participation.

(ii) The minority business enterprise participation schedule, including any amendment, shall be attached to and made a part of the executed contract.

(iii) 1. A contractor may not terminate or otherwise cancel the contract of a certified minority business enterprise subcontractor listed in the minority business enterprise participation schedule without showing good cause and obtaining the prior written consent of the minority business enterprise liaison and approval of the head of the unit.

2. The unit shall send a copy of the written consent obtained under subsubparagraph 1 of this subparagraph to the Governor's Office of Minority Affairs.

(iv) A minority business enterprise participation schedule may not be amended after the date of contract execution unless the request is approved by the head of the unit and the contract is amended.

[(11)**] (12)** If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § 14–301(j)(3) of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

(b) (1) The provisions of §§ 14–301(f) and 14–303 of this subtitle and subsection (a) of this section are inapplicable to the extent that any unit determines the provisions to be in conflict with any applicable federal program requirement.

(2) The determination under this subsection shall be included with the report required under § 14–305 of this subtitle.

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of information regarding any waivers requested in accordance with § **[**14–302(a)(8)(i)**] 14–302(A)(9)(I)** of this subtitle and subsection (b)(11) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(iii) The Board shall keep a record of the aggregate number and the identity of minority business enterprises that receive certification under the process established by the Board under subsection (b)(1) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions:

(i) designating one State agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements, including provisions that promote and facilitate the submission of some or all of the certification application through an electronic process;

(ii) for the purpose of certification under this subtitle, that promote and facilitate certification of minority business enterprises that have received certification from the U.S. Small Business Administration or a county that uses a certification process substantially similar to the process established in accordance with item (i) of this item;

(iii) requiring the agency designated to certify minority business enterprises to complete the agency's review of an application for certification and notify the applicant of the agency's decision within 90 days of receipt of a complete application that includes all of the information necessary for the agency to make a decision; and

(iv) authorizing the agency designated to certify minority business enterprises to extend the notification requirement established under item (iii) of this item once, for no more than an additional 60 days, if the agency provides the applicant with a written notice and explanation;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on the factors set forth in § **[**14–302(a)(2)(ii)**] 14–302(A)(3)(II)** of this subtitle;

(3) a requirement that bidders or offerors complete a document setting forth the percentage of the total dollar amount of the contract that the bidder or offeror agrees will be performed by certified minority business enterprises;

(4) a requirement that the solicitation documents completed and submitted by the bidder or offeror in connection with its minority business enterprise participation commitment must be attached to and made a part of the contract;

(5) a requirement that all contracts containing minority business enterprise participation goals shall contain a liquidated damages provision that applies in the event that the contractor fails to comply in good faith with the provisions of this subtitle or the pertinent terms of the applicable contract;

(6) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(7) provisions to ensure the uniformity of requests for bids on subcontracts;

(8) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(9) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(10) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(11) consistent with § **[**14–302(a)(8)**] 14–302(A)(9)** of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(12) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(13) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar

value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(14) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(15) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(16) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(17) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors;

(18) provisions establishing standards to require a minority business enterprise to perform a commercially useful function on a contract;

(19) a requirement that each unit work with the Governor's Office of Minority Affairs to designate certain procurements as being excluded from the requirements of § 14–302(a) of this subtitle; and

(20) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

14–309.

The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1, ***[****2016****] 2017****.*

Chapter 154 of the Acts of 2012

SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in consultation with the General Assembly and the Office of the Attorney General, shall initiate a study of the Minority Business Enterprise Program to evaluate the Program's continued compliance with the requirements of the Croson decision and any subsequent federal or constitutional requirements. In preparation for the study, the Board of Public Works may adopt regulations authorizing a unit of State government to require bidders

and offerors to submit information necessary for the conduct of the study. The Board of Public Works may designate that certain information received in accordance with regulations adopted under this section shall be confidential. Notwithstanding that certain information may be designated by the Board of Public Works as confidential, the Certification Agency may provide the information to any person that is under contract with the Certification Agency to assist in conducting the study. The study shall also evaluate race–neutral programs and other methods that can be used to address the needs of minority businesses. The final report on the study shall be submitted to the Legislative Policy Committee of the General Assembly, in accordance with § 2–1246 of the State Government Article, before September 30, ***[****2015****] 2016****, so that the General Assembly may review the report before the* ***[****2016****] 2017*** *Session.*

SECTION 2. ~~AND BE IT FURTHER ENACTED, That the Procurement Advisor shall:~~

~~(1) examine the process used by the heads of units of State government and their procurement officers, in consultation with the Special Secretary of Minority Affairs, the Secretary of Transportation, and the Attorney General under § 14–302(a)(1) of the State Finance and Procurement Article, to set overall percentage goals and subgoals for minority groups for each unit's total dollar value of procurement contracts being made directly or indirectly to minority business enterprises, including:~~

~~(i) the process used by the units and their procurement officers to set a lower percentage goal or subgoal for a minority group; and~~

~~(ii) whether the lower percentage goal or subgoal is reflective of or consistent with census data regarding changes in the minority population or the number of minority business enterprises in the State; and~~

~~(2) on or before December 31, 2013, report findings concerning the process utilized to set overall percentage goals and subgoals for minority groups for each unit's total dollar value of procurement contracts being made directly or indirectly to minority business enterprises to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.~~

~~SECTION 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 201

(House Bill 1353)

AN ACT concerning

Minority Business Enterprises – Participation and Goals and Subgoals

FOR the purpose of requiring the ~~Procurement Advisor to conduct an examination concerning the process by which the heads of units and their procurement officers, in consultation with the Special Secretary of Minority Affairs, the Secretary of Transportation, and the Attorney General, sets certain goals and subgoals for participation of certain minority groups in State procurement; specifying certain factors to be considered during the examination; requiring the Procurement Advisor to report certain findings on or before a certain date; and generally relating to the setting of goals and subgoals for participation of certain minority groups in State procurement~~ Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General, to establish guidelines for certain units of State government to consider when determining the appropriate minority business enterprise participation percentage goal for certain procurements; making certain conforming changes; altering the termination date for certain provisions of law concerning the minority business enterprise program; altering the dates by which the certification agency designated by the Board of Public Works for the minority business enterprise program, in consultation with the General Assembly and the Office of the Attorney General, is required to conduct a certain study of the minority business program and submit a certain report to the Legislative Policy Committee of the General Assembly; and generally relating to minority business enterprise participation and percentage goals and subgoals for certain procurements.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 12–102
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – State Finance and Procurement~~
~~Section 14–302(a)(1)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–302, 14–303, and 14–309
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 154 of the Acts of the General Assembly of 2012

Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

12–102.

(a) (1) The Board shall appoint a Procurement Advisor, who serves at the pleasure of the Board.

(2) The Procurement Advisor shall:

(i) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;

(ii) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in the management of the State procurement system;

(iii) examine all procurements that are subject to review by the Board and make recommendations to the Board as to the appropriateness of each procurement, with an emphasis on whether the proposed procurement:

1. has been competitively conducted; and

2. conforms to provisions of procurement law, procurement regulations, and best management practices;

(iv) prevent and detect fraud, waste, and abuse and foster competition in the expenditure of State funds in the procurement of supplies, services, or construction;

(v) conduct investigations into procurement policies, practices, and procedures, as appropriate;

(vi) investigate complaints made by State employees concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;

(vii) investigate complaints, other than formal bid protests filed under Title 15, Subtitle 2 of this article, made by contractors and other interested parties concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;

(viii) if apparent criminal violations are found in the course of an investigation, report findings to the Board of Public Works, Office of the Attorney General, United States Attorney, and State or local prosecutors, as appropriate;

(ix) if other apparent violations of law or regulation are found in the course of an investigation, report findings to the Board of Public Works, the appropriate agency head, and any other appropriate body for administrative action;

(x) produce and submit to the Board of Public Works and the General Assembly, in accordance with § 2–1246 of the State Government Article, an annual report of the activities of the Procurement Advisor, including:

1. all findings and recommendations for improvements to the procurement system; and

2. the identification of barriers to effective broad–based competition in State procurement and recommendations for the elimination of these barriers;

(xi) assist agencies and the public with questions regarding procurement policy;

(xii) establish policies for the effective training of State procurement officials to ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;

(xiii) coordinate activities with other entities performing similar functions;

(xiv) review internal audit reports and comment as appropriate;

(xv) be the principal staff to the Procurement Advisory Council; and

(xvi) notify the Legislative Auditor when the Procurement Advisor undertakes an investigation under item (vi) or (vii) of this paragraph.

(3) The Procurement Advisor shall:

(i) have access to all books, accounts, records, reports, any material related to contracts and procurement, and all other papers and equipment necessary to carry out its responsibilities; and

(ii) have direct and prompt access to all heads of agencies involved in the expenditure of public funds.

(b) (1) (i) The Board shall appoint a General Counsel, who serves at the pleasure of the Board.

(ii) The General Counsel shall be an attorney in this State.

(2) The General Counsel shall:

(i) provide independent legal advice to the Board;

(ii) examine all procurements that are subject to review by the Board and make recommendations to the Board as to the legal sufficiency of the procurements, with an emphasis on whether the proposed procurement has been competitively conducted;

(iii) assist the Procurement Advisor in investigations undertaken by the Procurement Advisor;

(iv) assist the Procurement Advisor in responding to complaints made by State employees, contractors, and other interested parties concerning fraud, waste, and abuse in the procurement process or any alleged violation of the procurement law and regulations;

(v) compile information for distribution to State procurement officials relating to recent decisions of the Maryland State Board of Contract Appeals and State and federal courts concerning procurement, including any policy or legal guidance to the procurement officials based on these decisions; and

(vi) review regulations proposed by the Board for legality and approve them for proposal and adoption.

(3) The General Counsel shall:

(i) have access to all books, accounts, records, any material related to contracts and procurement, and all other papers and equipment necessary to carry out its responsibilities; and

(ii) have direct and prompt access to all heads of agencies involved in the expenditure of public funds.

(c) In accordance with the State budget, the Board may appoint any additional staff necessary to carry out its responsibilities under this Division II.

~~14–302.~~

~~(a) (1) (i) Except for leases of real property, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve~~

~~an overall percentage goal of the unit's total dollar value of procurement contracts being made directly or indirectly to certified minority business enterprises.~~

~~(ii) 1. The overall percentage goal shall be established on a biennial basis by the Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General.~~

~~2. During any year in which there is a delay in establishing the overall goal, the previous year's goal will apply.~~

~~(iii) 1. In consultation with the Secretary of Transportation and the Attorney General, the Special Secretary of Minority Affairs shall establish guidelines on a biennial basis for each unit to consider while determining whether to set subgoals for the minority groups listed in § 14–301(j)(1)(i)1, 2, 3, 4, and 6 of this subtitle.~~

~~2. During any year in which there is a delay in establishing the subgoal guidelines, the previous year's subgoal guidelines will apply.~~

~~(iv) 1. The Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish goals and subgoal guidelines that, to the maximum extent feasible, approximate the level of minority business enterprise participation that would be expected in the absence of discrimination.~~

~~2. In establishing overall goals and subgoal guidelines, the Special Secretary of Minority Affairs shall provide for public participation by consulting with minority, women's, and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning:~~

~~A. the availability of minority– and women–owned businesses;~~

~~B. the effects of discrimination on opportunities for minority– and women–owned businesses; and~~

~~C. the State's operation of the Minority Business Enterprise Program.~~

~~(v) In establishing overall goals, the factors to be considered shall include:~~

~~1. the relative availability of minority– and women–owned businesses to participate in State procurement as demonstrated by the State's most recent disparity study;~~

~~2. past participation of minority business enterprises in State procurement, except for procurement related to leases of real property; and~~

~~3. other factors that contribute to constitutional goal setting.~~

~~(vi) Notwithstanding § 12–101 of this article, the Special Secretary of Minority Affairs shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article setting forth the State's overall goal.~~

14–302.

(a) (1) (i) Except for leases of real property, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve an overall percentage goal of the unit's total dollar value of procurement contracts being made directly or indirectly to certified minority business enterprises.

(ii) 1. The overall percentage goal shall be established on a biennial basis by the Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General.

2. During any year in which there is a delay in establishing the overall goal, the previous year's goal will apply.

(iii) 1. In consultation with the Secretary of Transportation and the Attorney General, the Special Secretary of Minority Affairs shall establish guidelines on a biennial basis for each unit to consider while determining whether to set subgoals for the minority groups listed in § 14–301(j)(1)(i)1, 2, 3, 4, and 6 of this subtitle.

2. During any year in which there is a delay in establishing the subgoal guidelines, the previous year's subgoal guidelines will apply.

(iv) 1. The Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish goals and subgoal guidelines that, to the maximum extent feasible, approximate the level of minority business enterprise participation that would be expected in the absence of discrimination.

2. In establishing overall goals and subgoal guidelines, the Special Secretary of Minority Affairs shall provide for public participation by consulting with minority, women's, and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning:

A. the availability of minority– and women–owned businesses;

B. the effects of discrimination on opportunities for minority– and women–owned businesses; and

C. the State's operation of the Minority Business Enterprise Program.

(v) In establishing overall goals, the factors to be considered shall include:

1. the relative availability of minority– and women–owned businesses to participate in State procurement as demonstrated by the State's most recent disparity study;

2. past participation of minority business enterprises in State procurement, except for procurement related to leases of real property; and

3. other factors that contribute to constitutional goal setting.

(vi) Notwithstanding § 12–101 of this article, the Special Secretary of Minority Affairs shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article setting forth the State's overall goal.

(2) THE SPECIAL SECRETARY OF MINORITY AFFAIRS, IN CONSULTATION WITH THE SECRETARY OF TRANSPORTATION AND THE ATTORNEY GENERAL, SHALL ESTABLISH GUIDELINES FOR EACH UNIT TO CONSIDER WHEN DETERMINING THE APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION PERCENTAGE GOAL FOR A PROCUREMENT CONTRACT IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

[(2)**] (3)** Each unit shall:

(i) consider the practical severability of all contracts and, in accordance with § 11–201 of this article, may not bundle contracts;

(ii) implement a program that will enable the unit to evaluate each contract to determine the appropriate minority business enterprise participation goals, if any, for the contract based on:

1. the potential subcontract opportunities available in the prime procurement contract;

2. the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

3. THE CONTRACT GOAL GUIDELINES ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION;

[3.**] 4.** the **SUBGOAL** guidelines established under paragraph **[**(1)(ii)**] (1)(III)** of this subsection; and

[4.**] 5.** other factors that contribute to constitutional goal setting;

(iii) monitor and collect data with respect to prime contractor compliance with contract goals; and

(iv) institute corrective action when prime contractors do not make good–faith efforts to comply with contract goals.

[(3)**] (4)** Units may not use quotas or any project goal–setting process that:

(i) solely relies on the State's overall numerical goal, or any other jurisdiction's overall numerical goal; or

(ii) fails to incorporate the analysis outlined in paragraph (2)(ii) of this subsection.

[(4)**] (5)** (i) A woman who is also a member of an ethnic or racial minority group may be certified in that category in addition to the gender category.

(ii) For purposes of achieving the goals in this subsection, a certified minority business enterprise may participate in a procurement contract and be counted as a woman–owned business, or as a business owned by a member of an ethnic or racial group, but not both, if the business has been certified in both categories.

[(5)**] (6)** Each unit shall meet the maximum feasible portion of the State's overall goal established in accordance with this subsection by using race–neutral measures to facilitate minority business enterprise participation in the procurement process.

[(6)**] (7)** If a unit establishes minority business enterprise participation goals for a contract, a contractor, including a contractor that is a certified minority business enterprise, shall:

(i) identify specific work categories appropriate for subcontracting;

(ii) at least 10 days before bid opening, solicit minority business enterprises, through written notice that:

1. describes the categories of work under item (i) of this paragraph; and

2. provides information regarding the type of work being solicited and specific instructions on how to submit a bid;

(iii) attempt to make personal contact with the firms in item (ii) of this paragraph;

(iv) offer to provide reasonable assistance to minority business enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

(v) in order to publicize contracting opportunities to minority business enterprises, attend prebid or preproposal meetings or other meetings scheduled by the unit; and

(vi) upon acceptance of a bid or proposal, provide the unit with a list of minority businesses with whom the contractor negotiated, including price quotes from minority and nonminority firms.

[(7)**] (8)** The Special Secretary of Minority Affairs shall:

(i) in consultation with the Secretary of Transportation and the Attorney General, establish procedures governing how the participation of minority business enterprise prime contractors is counted toward contract goals; and

(ii) notwithstanding § 12–101 of this article, adopt regulations setting forth the procedures established in accordance with this paragraph.

[(8)**] (9)** (i) 1. If a contractor, including a certified minority business enterprise, does not achieve all or a part of the minority business enterprise participation goals on a contract, the unit shall make a finding of whether the contractor has demonstrated that the contractor took all necessary and reasonable steps to achieve the goals, including compliance with paragraph (6) of this subsection.

2. A waiver of any part of the minority business enterprise goals for a contract shall be granted if a contractor provides a reasonable demonstration of good–faith efforts to achieve the goals.

(ii) If the unit determines that a waiver should be granted in accordance with subparagraph (i) of this paragraph, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.

(iii) The head of the unit may waive any of the requirements of this subsection relating to the establishment, use, and waiver of contract goals for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those requirements.

(iv) 1. Except for waivers granted in accordance with subparagraph (iii) of this paragraph, when a waiver determination is made, the unit shall issue the determination in writing.

2. The head of the unit shall:

A. keep one copy of the waiver determination and the reasons for the determination; and

B. forward one copy of the waiver determination to the Governor's Office of Minority Affairs.

(v) On or before July 31 of each year, each unit shall submit directly to the Board of Public Works and the Governor's Office of Minority Affairs an annual report of waivers requested and waivers granted under this paragraph.

(vi) The report required under subparagraph (v) of this paragraph shall contain the following information on those contracts where the unit considered a contractor's request for waiver of all or a portion of the minority business enterprise goals:

1. the contract titles, numbers, and dates;

2. the number of waiver requests received;

3. the number of waiver requests granted; and

4. any other information specifically requested by the Board.

[(9)**] (10)** (i) 1. This paragraph applies to a bidder or offeror after submission of a bid or proposal and before the execution of a contract with an expected degree of minority business enterprise participation.

2. If the bidder or offeror determines that a minority business enterprise identified in the minority business enterprise participation schedule has become or will become unavailable or ineligible to perform the work required under the contract, the bidder or offeror shall notify the unit within 72 hours of making the determination.

(ii) 1. If a minority business enterprise identified in the minority business enterprise participation schedule submitted with a bid or offer has

become or will become unavailable or ineligible to perform the work required under the contract, the bidder or offeror may submit a written request with the unit to amend the minority business enterprise participation schedule.

2. The request to amend the minority business enterprise participation schedule shall indicate the bidder's or offeror's efforts to substitute another certified minority business enterprise to perform the work that the unavailable or ineligible minority business enterprise would have performed.

(iii) A minority business enterprise participation schedule may not be amended unless:

1. the bidder or offeror provides a satisfactory explanation of the reason for inclusion of the unavailable or ineligible firm on the minority business enterprise participation schedule; and

2. the amendment is approved by the unit's procurement officer after consulting with the unit's minority business enterprise liaison.

[(10)**] (11)** (i) This paragraph applies after execution of a contract with an expected degree of minority business enterprise participation.

(ii) The minority business enterprise participation schedule, including any amendment, shall be attached to and made a part of the executed contract.

(iii) 1. A contractor may not terminate or otherwise cancel the contract of a certified minority business enterprise subcontractor listed in the minority business enterprise participation schedule without showing good cause and obtaining the prior written consent of the minority business enterprise liaison and approval of the head of the unit.

2. The unit shall send a copy of the written consent obtained under subsubparagraph 1 of this subparagraph to the Governor's Office of Minority Affairs.

(iv) A minority business enterprise participation schedule may not be amended after the date of contract execution unless the request is approved by the head of the unit and the contract is amended.

[(11)**] (12)** If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § 14–301(j)(3) of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

(b) (1) The provisions of §§ 14–301(f) and 14–303 of this subtitle and subsection (a) of this section are inapplicable to the extent that any unit determines the provisions to be in conflict with any applicable federal program requirement.

(2) The determination under this subsection shall be included with the report required under § 14–305 of this subtitle.

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of information regarding any waivers requested in accordance with § **[**14–302(a)(8)(i)**] 14–302(A)(9)(I)** of this subtitle and subsection (b)(11) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(iii) The Board shall keep a record of the aggregate number and the identity of minority business enterprises that receive certification under the process established by the Board under subsection (b)(1) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions:

(i) designating one State agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements, including provisions that promote and facilitate the submission of some or all of the certification application through an electronic process;

(ii) for the purpose of certification under this subtitle, that promote and facilitate certification of minority business enterprises that have received certification from the U.S. Small Business Administration or a county that uses a certification process substantially similar to the process established in accordance with item (i) of this item;

(iii) requiring the agency designated to certify minority business enterprises to complete the agency's review of an application for certification and notify the applicant of the agency's decision within 90 days of receipt of a complete application that includes all of the information necessary for the agency to make a decision; and

(iv) authorizing the agency designated to certify minority business enterprises to extend the notification requirement established under item (iii) of this item once, for no more than an additional 60 days, if the agency provides the applicant with a written notice and explanation;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on the factors set forth in § **[**14–302(a)(2)(ii)**] 14–302(A)(3)(II)** of this subtitle;

(3) a requirement that bidders or offerors complete a document setting forth the percentage of the total dollar amount of the contract that the bidder or offeror agrees will be performed by certified minority business enterprises;

(4) a requirement that the solicitation documents completed and submitted by the bidder or offeror in connection with its minority business enterprise participation commitment must be attached to and made a part of the contract;

(5) a requirement that all contracts containing minority business enterprise participation goals shall contain a liquidated damages provision that applies in the event that the contractor fails to comply in good faith with the provisions of this subtitle or the pertinent terms of the applicable contract;

(6) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(7) provisions to ensure the uniformity of requests for bids on subcontracts;

(8) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(9) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(10) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(11) consistent with § **[**14–302(a)(8)**] 14–302(A)(9)** of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(12) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(13) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(14) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(15) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(16) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission;

(17) provisions promoting and providing for the counting and reporting of certified minority business enterprises as prime contractors;

(18) provisions establishing standards to require a minority business enterprise to perform a commercially useful function on a contract;

(19) a requirement that each unit work with the Governor's Office of Minority Affairs to designate certain procurements as being excluded from the requirements of § 14–302(a) of this subtitle; and

(20) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

14–309.

The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1, **[**2016**] 2017**.

Chapter 154 of the Acts of 2012

SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in consultation with the General Assembly and the Office of the Attorney General, shall initiate a study of the Minority Business Enterprise Program to evaluate the Program's continued compliance with the requirements of the Croson decision and any subsequent federal or constitutional requirements. In preparation for the study, the Board of Public Works may adopt regulations authorizing a unit of State government to require bidders and offerors to submit information necessary for the conduct of the study. The Board of Public Works may designate that certain information received in accordance with regulations adopted under this section shall be confidential. Notwithstanding that certain information may be designated by the Board of Public Works as confidential, the Certification Agency may provide the information to any person that is under contract with the Certification Agency to assist in conducting the study. The study shall also evaluate race–neutral programs and other methods that can be used to address the needs of minority businesses. The final report on the study shall be submitted to the Legislative Policy Committee of the General Assembly, in accordance with § 2–1246 of the State Government Article, before September 30, **[**2015**] 2016**, so that the General Assembly may review the report before the **[**2016**] 2017** Session.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Procurement Advisor shall:~~

~~(1) examine the process used by the heads of units of State government and their procurement officers, in consultation with the Special Secretary of Minority Affairs, the Secretary of Transportation, and the Attorney General under § 14–302(a)(1) of the State Finance and Procurement Article, to set overall percentage goals and subgoals for minority groups for each unit's total dollar value of procurement contracts being made directly or indirectly to minority business enterprises, including:~~

~~(i) the process used by the units and their procurement officers to set a lower percentage goal or subgoal for a minority group; and~~

~~(ii) whether the lower percentage goal or subgoal is reflective of or consistent with census data regarding changes in the minority population or the number of minority business enterprises in the State; and~~

~~(2) on or before December 31, 2013, report findings concerning the process utilized to set overall percentage goals and subgoals for minority groups for each unit's total dollar value of procurement contracts being made directly or indirectly to minority business enterprises to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 202

(Senate Bill 195)

AN ACT concerning

Hospitals – Notice to Patients – Outpatient Status and Billing Implications

FOR the purpose of requiring a hospital, under certain circumstances, to provide certain notice to a patient of the patient's outpatient status, the billing implications of the outpatient status, and the impact of the outpatient status on the patient's eligibility for Medicare rehabilitation services; requiring the Department of Health and Mental Hygiene, in consultation with certain hospitals, to adopt by regulation ~~standard language for~~ standardized elements to be included in a certain written notice; and generally relating to notices provided by hospitals to patients.

BY adding to
Article – Health – General
Section 19–349.1
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

19–349.1.

(A) A HOSPITAL SHALL PROVIDE ORAL AND WRITTEN NOTICE TO A PATIENT OF THE PATIENT'S OUTPATIENT STATUS, THE BILLING IMPLICATIONS OF THE OUTPATIENT STATUS, AND THE IMPACT OF THE OUTPATIENT STATUS ON THE PATIENT'S ELIGIBILITY FOR MEDICARE REHABILITATION SERVICES IF:

(1) THE PATIENT RECEIVES ON–SITE SERVICES FROM THE HOSPITAL FOR MORE THAN ~~18~~ 23 CONSECUTIVE HOURS;

(2) THE ON–SITE SERVICES RECEIVED BY THE PATIENT INCLUDE A HOSPITAL BED AND MEALS THAT HAVE BEEN PROVIDED IN AN AREA OF THE HOSPITAL OTHER THAN THE EMERGENCY ROOM; AND

(3) THE PATIENT IS CLASSIFIED AS AN OUTPATIENT AT THE HOSPITAL FOR OBSERVATION RATHER THAN AN ADMITTED INPATIENT.

(B) THE DEPARTMENT, IN CONSULTATION WITH HOSPITALS IN THE STATE, SHALL ADOPT BY REGULATION ~~STANDARD LANGUAGE FOR~~ STANDARDIZED ELEMENTS TO BE INCLUDED IN THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 203

(House Bill 1062)

AN ACT concerning

Hospitals – Notice to Patients – Outpatient Status and Billing Implications

FOR the purpose of requiring a hospital, under certain circumstances, to provide certain notice to a patient of the patient's outpatient status and the billing implications of the outpatient status; requiring the Department of Health and Mental Hygiene, in consultation with certain hospitals, to adopt by regulation ~~standard language for~~ standardized elements to be included in a certain written notice; and generally relating to notices provided by hospitals to patients.

BY adding to
Article – Health – General
Section 19–349.1
Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

19–349.1.

(A) A HOSPITAL SHALL PROVIDE ORAL AND WRITTEN NOTICE TO A PATIENT OF THE PATIENT'S OUTPATIENT STATUS ~~AND THE BILLING IMPLICATIONS OF THE OUTPATIENT STATUS~~, *THE BILLING IMPLICATIONS OF THE OUTPATIENT STATUS, AND THE IMPACT OF THE OUTPATIENT STATUS ON THE PATIENT'S ELIGIBILITY FOR MEDICARE REHABILITATION SERVICES* IF:

(1) THE PATIENT RECEIVES ON–SITE SERVICES FROM THE HOSPITAL FOR MORE THAN ~~18~~ 23 CONSECUTIVE HOURS;

(2) THE ON–SITE SERVICES RECEIVED BY THE PATIENT INCLUDE A HOSPITAL BED AND MEALS THAT HAVE BEEN PROVIDED IN AN AREA OF THE HOSPITAL OTHER THAN THE EMERGENCY ROOM; AND

(3) THE PATIENT IS CLASSIFIED AS AN OUTPATIENT AT THE HOSPITAL FOR OBSERVATION RATHER THAN AN ADMITTED INPATIENT.

(B) THE DEPARTMENT, IN CONSULTATION WITH HOSPITALS IN THE STATE, SHALL ADOPT BY REGULATION ~~STANDARD LANGUAGE FOR~~ STANDARDIZED ELEMENTS TO BE INCLUDED IN THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 204

(Senate Bill 198)

AN ACT concerning

Estates and Trusts – Family Allowance

FOR the purpose of altering certain family allowances for a surviving spouse or certain children of a decedent; providing for the application of this Act; and generally relating to certain family allowances.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 3–201
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Estates and Trusts

3–201.

(a) The surviving spouse is entitled to receive an allowance of **[**$5,000**]** **$10,000** for personal use.

(b) An allowance of **[**$2,500**]** **$5,000** for the use of each unmarried child of the decedent who has not attained the age of 18 years at the time of the death of the decedent shall be paid by the personal representative as provided in § 13–501 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any decedent who dies before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 205

(Senate Bill 199)

AN ACT concerning

Real Property – Refinance Mortgage – Priority over Junior Liens

FOR the purpose of authorizing a mortgagor or grantor to refinance <u>the indebtedness secured by</u> a first mortgage or deed of trust without obtaining permission from

the holder of a certain junior lien under certain circumstances; providing that a certain refinance mortgage shall have, on recordation, the same lien priority as the first mortgage or deed of trust that ~~it~~ the refinance mortgage replaces; requiring a certain statement to be ~~printed~~ included on a refinance mortgage; defining certain terms; providing for the construction and application of this Act; and generally relating to lien priority and refinance mortgages.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 3–203
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Real Property
Section 7–112
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Real Property

3–203.

Every recorded deed or other instrument takes effect from its effective date as against the grantee of any deed executed and delivered subsequent to the effective date, unless the grantee of the subsequent deed has:

(1) Accepted delivery of the deed or other instrument:

(i) In good faith;

(ii) Without constructive notice under § 3–202; and

(iii) For a good and valuable consideration; and

(2) Recorded the deed first.

7–112.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "JUNIOR LIEN" MEANS A MORTGAGE, DEED OF TRUST, OR OTHER SECURITY ~~INTEREST IN REAL PROPERTY~~ INSTRUMENT THAT IS SUBORDINATE IN PRIORITY TO A FIRST MORTGAGE OR DEED OF TRUST UNDER § 3–203 OF THIS ARTICLE.

(II) "JUNIOR LIEN" DOES NOT INCLUDE:

1. A JUDGMENT LIEN; OR

2. A LIEN FILED UNDER THE MARYLAND CONTRACT LIEN ACT.

(3) "REFINANCE MORTGAGE" MEANS A MORTGAGE, DEED OF TRUST, OR OTHER SECURITY ~~INTEREST IN REAL PROPERTY~~ INSTRUMENT GIVEN TO SECURE THE REFINANCING OF INDEBTEDNESS SECURED BY A FIRST MORTGAGE OR DEED OF TRUST.

(4) "RESIDENTIAL PROPERTY" MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.

(B) A MORTGAGOR OR GRANTOR WHO REFINANCES IN FULL THE UNPAID INDEBTEDNESS SECURED BY A FIRST MORTGAGE OR DEED OF TRUST ENCUMBERING OR CONVEYING AN INTEREST IN RESIDENTIAL PROPERTY AT ~~A~~ AN INTEREST RATE LOWER THAN PROVIDED FOR IN THE EVIDENCE OF INDEBTEDNESS SECURED BY THE FIRST MORTGAGE OR DEED OF TRUST IS NOT REQUIRED TO OBTAIN PERMISSION FROM THE HOLDER OF A JUNIOR LIEN IF:

(1) THE PRINCIPAL AMOUNT SECURED BY THE JUNIOR LIEN DOES NOT EXCEED $150,000; AND

(2) THE PRINCIPAL AMOUNT SECURED BY THE REFINANCE MORTGAGE DOES NOT EXCEED THE UNPAID OUTSTANDING PRINCIPAL BALANCE SECURED BY THE FIRST MORTGAGE OR DEED OF TRUST PLUS AN AMOUNT TO PAY CLOSING COSTS NOT EXCEEDING $5,000.

(C) A REFINANCE MORTGAGE THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION SHALL HAVE, ON RECORDATION, THE SAME LIEN PRIORITY AS THE FIRST MORTGAGE OR DEED OF TRUST THAT THE REFINANCE MORTGAGE REPLACES.

(D) A REFINANCE MORTGAGE THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION SHALL INCLUDE ~~ON THE FIRST PAGE~~ THE FOLLOWING STATEMENT IN BOLD OR CAPITALIZED LETTERS: "THIS IS A

REFINANCE OF A DEED OF TRUST/MORTGAGE/OTHER SECURITY ~~INTEREST~~ INSTRUMENT RECORDED AMONG THE LAND RECORDS OF ..... COUNTY/CITY, MARYLAND IN LIBER NO. ..... FOLIO ....., IN THE ORIGINAL PRINCIPAL AMOUNT OF ....., AND WITH THE UNPAID OUTSTANDING PRINCIPAL BALANCE OF ..... . THE INTEREST RATE PROVIDED FOR IN THE EVIDENCE OF INDEBTEDNESS SECURED BY THIS REFINANCE MORTGAGE IS LOWER THAN THE APPLICABLE INTEREST RATE PROVIDED FOR IN THE EVIDENCE OF INDEBTEDNESS SECURED BY THE DEED OF TRUST/MORTGAGE/OTHER SECURITY INSTRUMENT BEING REFINANCED."

(E) THE PRIORITIES AMONG TWO OR MORE JUNIOR LIENS SHALL BE GOVERNED BY § 3–203 OF THIS ARTICLE.

(F) THIS SECTION MAY NOT BE CONSTRUED TO PREEMPT OR ABROGATE THE OPERATION OR EFFECT OF, OR ABILITY OF A COURT TO APPLY THE PRINCIPLES OF, EQUITABLE SUBROGATION OR EQUITABLE SUBORDINATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to a refinance mortgage recorded or having an effective date before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 206

(Senate Bill 212)

AN ACT concerning

Vehicle Laws – Registration Plates for Motorcycles – Individuals with Disabilities

FOR the purpose of authorizing an individual to possess a certain number of certain special registration plates for individuals with disabilities for certain motorcycles in addition to the special registration plate and parking placards authorized under certain provisions of law; and generally relating to special registration plates and parking placards for individuals with disabilities.

BY repealing and reenacting, with amendments,
Article – Transportation

Section 13–616(c) and 13–616.1(c)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Transportation

13–616.

(c) (1) Except as otherwise provided in subsection (b)(4) of this section, special registration and special registration plates may be issued under this section only if the applicant submits proof satisfactory to the Administration that the applicant is an individual with a disability described in subsection (b)(1) of this section.

(2) Except as provided by **PARAGRAPH (3) OF THIS SUBSECTION AND** subsection (b)(4) of this section, the Administration may not accept applications for special registration under this section from an applicant who, at the time of application:

(i) Possesses one valid special registration issued under this section; or

(ii) Possesses two parking placards issued under § 13–616.1 of this subtitle.

(3) AN INDIVIDUAL MAY POSSESS TWO VALID SPECIAL REGISTRATIONS FOR CLASS D MOTORCYCLES IN ADDITION TO THE SPECIAL REGISTRATION AUTHORIZED UNDER ~~PARAGRAPH (2) OF THIS SUBSECTION~~ *SUBSECTION (B) OF THIS SECTION* AND THE PARKING PLACARDS AUTHORIZED UNDER § 13–616.1 OF THIS SUBTITLE.

13–616.1.

(c) (1) **[**The**]** **EXCEPT AS PROVIDED IN § 13–616(C) OF THIS SUBTITLE, THE** Administration may not issue to an applicant:

(i) More than one placard if the applicant requests one set of special registration plates under § 13–616 of this subtitle; or

(ii) More than two placards if the applicant does not request a set of special registration plates under § 13–616 of this subtitle.

(2) **[**The**]** **EXCEPT AS PROVIDED IN § 13–616(C) OF THIS SUBTITLE, THE** Administration may not issue to a person issued special vehicle registration plates under § 13–616 of this subtitle a combination of special disability registration plates and placards exceeding two.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 207

(Senate Bill 223)

AN ACT concerning

Alcoholic Beverages – Class 7 Limited Beer Wholesaler's License

FOR the purpose of creating a Class 7 limited beer wholesaler's license that allows the license holder to sell, deliver, and distribute its own beer produced at the holder's premises to a retail license holder or permit holder in the State under certain circumstances; repealing certain prohibitions against issuing a nonresident dealer's permit to a certain person; authorizing the Office of the Comptroller to issue a nonresident brewery permit to a certain person licensed outside the State to sell and deliver a certain amount of beer to a retail license holder or permit holder in the State under certain circumstances; authorizing certain holders of a Class 5 manufacturer's license or a Class 7 micro–brewery license to apply for and obtain a Class 7 limited beer wholesaler's license if certain requirements are met; specifying certain annual license fees for a Class 7 limited beer wholesaler's license and a nonresident brewery permit; authorizing a holder of a Class 7 limited beer wholesaler's license to use additional locations for certain purposes on the payment of a certain fee; allowing a Class 7 limited beer wholesaler's license to be issued only to certain persons; authorizing a holder of a Class 7 limited beer wholesaler's license to distribute not more than a certain amount of its own beer annually; and generally relating to Class 7 beer wholesaler's licenses.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–101(i)(2) and (w)(3), 2–201(b), and 2–301(a) and (b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages

Section 2–101(z)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

2–101.

(i) (2) A nonresident dealer's permit may not be issued to a person who:

(i) Holds a wholesaler or retailer license of any class issued under this article;

(ii) Has an interest in a wholesaler licensed under this article**[**, other than a disclosed legal, equity, or security interest of a malt beverage wholesaler**]**; or

(iii) Has an interest in a retailer licensed under this article.

(w) (3) A resident dealer's permit may not be issued to a person who:

(i) Holds a wholesaler or retailer license of any class issued under this article;

(ii) Has an interest in a wholesaler licensed under this article**[**, other than a disclosed legal, equity, or security interest of a malt beverage wholesaler**]**; or

(iii) Has an interest in a retailer licensed under this article.

(Z) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A NONRESIDENT BREWERY PERMIT TO A PERSON THAT:

(I) IS LICENSED OUTSIDE THE STATE TO ENGAGE IN THE MANUFACTURE OF BEER;

(II) PRODUCES IN THE AGGREGATE FROM ALL OF ITS LOCATIONS NOT MORE THAN 22,500 BARRELS OF BEER ANNUALLY; AND

(III) DOES NOT HOLD A NONRESIDENT DEALER'S PERMIT.

(2) A HOLDER OF A NONRESIDENT BREWERY PERMIT MAY SELL AND DELIVER NOT MORE THAN 3,000 BARRELS OF ITS OWN BEER ANNUALLY FROM A LOCATION OUTSIDE THE STATE TO A RETAIL LICENSE HOLDER OR PERMIT HOLDER IN THE STATE AUTHORIZED TO ACQUIRE THE BEER.

(3) A NONRESIDENT BREWERY PERMIT HOLDER SHALL COMPLY WITH ALL THE REQUIREMENTS OF THIS ARTICLE, THE TAX – GENERAL ARTICLE, AND THE REGULATIONS OF THE OFFICE OF THE COMPTROLLER THAT APPLY TO A HOLDER OF A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE.

(4) THE ANNUAL FEE FOR A NONRESIDENT BREWERY PERMIT IS $50.

2–201.

(b) (1) This subsection does not apply to a Class 6 pub–brewery license.

(2) The holder of a distillery, rectifying, winery, limited winery, or brewery license may apply for and obtain, under a different name, one or more additional distillery, rectifying, winery, limited winery, or brewery licenses for the same or another premises.

(3) Those licenses may be issued to different persons or under trade names used by persons occupying a part of or all of the same premises.

(4) A holder of a license listed in paragraph (2) of this subsection may hold additional licenses listed in paragraph (2) of this subsection of the same or of a different class.

(5) (i) The holder of a rectifying**[**,**]** **OR** winery**[**, or brewery**]** license may apply for and obtain a wholesaler's license of any class for the same premises or elsewhere as provided under this article.

(ii) The holder of a limited winery license may apply for and obtain a Class 6 limited wine wholesaler's license for the same premises or elsewhere as provided under this article.

(III) 1. THE HOLDER OF A CLASS 5 MANUFACTURER'S LICENSE OR CLASS 7 MICRO–BREWERY LICENSE MAY APPLY FOR AND OBTAIN A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE IN ACCORDANCE WITH THIS SUBPARAGRAPH.

2. A HOLDER OF A CLASS 5 MANUFACTURER'S LICENSE THAT WAS SELLING THE HOLDER'S OWN BEER AT WHOLESALE IN THE STATE AS OF JANUARY 1, 2013, MAY OBTAIN A CLASS 7 LIMITED BEER

WHOLESALER'S LICENSE TO CONTINUE TO SELL THE HOLDER'S OWN BEER AT WHOLESALE IN THE SAME LOCATION IN AN AMOUNT THAT IS NOT MORE THAN 3,000 BARRELS ANNUALLY.

3. A HOLDER OF A CLASS 5 MANUFACTURER'S LICENSE OR CLASS 7 MICRO–BREWERY LICENSE THAT PRODUCES IN AGGREGATE FROM ALL ITS LOCATIONS NOT MORE THAN 22,500 BARRELS OF BEER ANNUALLY MAY OBTAIN A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE AND DISTRIBUTE NOT MORE THAN 3,000 BARRELS OF ITS OWN BEER ANNUALLY.

2–301.

(a) (1) The annual fees for the following classes of wholesaler's licenses are:

Class 1	Beer, wine and liquor	$ 2,000
Class 2	Wine and liquor	1,750
Class 3	Beer and wine	1,500
Class 4	Beer	1,250
Class 5	Wine	1,250
Class 6	Limited wine	50
CLASS 7	**LIMITED BEER**	**50**

(2) Upon approval of the application:

(i) A Class 1 wholesale licensee may use additional locations for the warehousing, sale and delivery of beer, wine and liquor upon the payment of an additional fee of $2,000 for each additional location.

(ii) A Class 2 wholesale licensee may use additional locations for the warehousing, sale and delivery of wine and liquor upon the payment of an additional fee of $1,750 for each additional location.

(iii) A Class 3 wholesale licensee may use additional locations for the warehousing, sale and delivery of beer and wine upon the payment of an additional fee of $1,500 for each additional location.

(iv) A Class 4 wholesale licensee may use additional locations for the warehousing, sale and delivery of beer upon the payment of an additional fee of $1,250 for each additional location.

(v) A Class 5 wholesale licensee may use additional locations for the warehousing, sale and delivery of wine upon the payment of an additional fee of $1,250 for each additional location.

(vi) A Class 6 limited wine wholesale licensee may use additional locations for the warehousing, sale and delivery of wine upon the payment of an additional fee of $50 for each additional location.

(VII) A CLASS 7 LIMITED BEER WHOLESALE LICENSEE MAY USE ADDITIONAL LOCATIONS FOR THE WAREHOUSING, SALE, AND DELIVERY OF BEER ON THE PAYMENT OF AN ADDITIONAL FEE OF $50 FOR EACH ADDITIONAL LOCATION.

(b) (1) Except as otherwise provided in this subsection, a wholesaler's license issued in accordance with the fee paid entitles the holder to acquire the alcoholic beverages indicated on the license from licensees and holders of nonresident dealer's permits and resident dealer's permits authorized by this State to make the sales and deliveries. The license authorizes the sale and delivery of those alcoholic beverages from the licensed premises to licensees and permit holders in Maryland and to persons outside of this State.

(2) A Class 6 limited wine wholesaler's license shall be issued only to a wine manufacturer that:

(i) Produces not more than 27,500 gallons of its own wine annually; and

(ii) Holds a Class 4 limited winery manufacturer's license issued under this article.

(3) A person who holds a Class 6 limited wine wholesaler's license, on approval of the application and payment of the fee:

(i) May sell and deliver its own brand of wine produced at the licensee's premises to a retail licensee or permit holder in the State authorized to acquire the wine; and

(ii) May not sell its wine to a licensed wholesaler.

(4) A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE SHALL BE ISSUED ONLY TO A PERSON THAT:

(I) PRODUCES IN AGGREGATE FROM ALL ITS LOCATIONS NOT MORE THAN 22,500 BARRELS OF BEER ANNUALLY; AND

(II) HOLDS A CLASS 5 MANUFACTURER'S LICENSE OR CLASS 7 MICRO–BREWERY LICENSE.

(5) ON APPROVAL OF THE APPLICATION AND PAYMENT OF THE FEE, A HOLDER OF A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE MAY:

(I) SELL AND DELIVER ITS OWN BEER PRODUCED AT THE HOLDER'S PREMISES TO A RETAIL LICENSE HOLDER OR PERMIT HOLDER IN THE STATE AUTHORIZED TO ACQUIRE THE BEER; AND

(II) DISTRIBUTE NOT MORE THAN 3,000 BARRELS OF ITS OWN BEER ANNUALLY.

[(4)**] (6)** In Allegany County the holder of a Class 1 or Class 2 wholesaler's license may not sell liquor in any size container smaller than 23 ounces or 680 milliliters to any holder of a special permit issued under § 7–101(h) of this article.

[(5)**] (7)** A wholesaler's license of the appropriate class authorizes the holder to directly import beer, wine, or distilled spirits from sources outside the continental limits and possessions of the United States. However, any wholesale licensee that imports for subsequent distribution in or outside the State of Maryland shall be:

(i) The brand owner;

(ii) A wholesale licensee that purchases directly from the brand owner or the authorized agent of the brand owner; or

(iii) A wholesale licensee that purchases from the authorized United States importer.

[(6)**] (8)** Paragraph **[**(5)**] (7)** of this subsection only applies if the wholesale licensee's jurisdiction and authority to sell has been submitted to the Comptroller by the brand owner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 208

(Senate Bill 224)

AN ACT concerning

State Employee and Retiree Health and Welfare Benefits Program – ~~Bona Fide~~ Wellness Program ~~and Wellness Promotion~~

FOR the purpose of requiring the Secretary of Budget and Management~~, in consultation with the Secretary of Health and Mental Hygiene, to develop and implement a certain bona fide wellness program for inclusion~~ to include a certain wellness program in the State Employee and Retiree Health and Welfare Benefits Program; establishing certain requirements for the ~~bona fide~~ wellness program; ~~authorizing the bona fide wellness program to include certain incentives for achieving health goals; requiring the Secretary of Budget and Management to consider certain actions to promote wellness among Program enrollees;~~ requiring the Secretary of Budget and Management to report to the Governor and ~~the General Assembly~~ certain legislative committees on or before ~~a certain date~~ certain dates on the implementation of this Act; defining a certain term; and generally relating to a ~~bona fide~~ wellness program in the State Employee and Retiree Health and Welfare Benefits Program ~~and wellness promotion~~.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 2–501(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 2–501(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–503(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

2–501.

(a) In this subtitle the following terms have the meanings indicated.

(b) "Program" means the State Employee and Retiree Health and Welfare Benefits Program.

(D) "WELLNESS PROGRAM" MEANS A PROGRAM THAT IS DESIGNED TO:

(1) PROMOTE HEALTH OR PREVENT OR DETECT DISEASE OR ILLNESS;

(2) IMPROVE CLINICAL OUTCOMES;

(3) PREVENT OR REDUCE ACUTE ADMISSIONS AND READMISSIONS TO HEALTH CARE FACILITIES;

(4) IMPROVE TREATMENT COMPLIANCE FOR CHRONIC CONDITIONS;

(5) PROMOTE HEALTHY BEHAVIORS; OR

(6) PREVENT OR CONTROL INJURY.

2–503.

(b) (1) The Secretary may arrange as the Secretary considers appropriate any benefit option for inclusion in the Program.

(2) The Secretary shall include in the Program an option to purchase up to $200,000 of additional life insurance coverage for employees who:

(i) fly in a helicopter in the course of their employment with the State;

(ii) scuba dive in the course of their employment with the State; or

(iii) as a result of their employment with the State, face a significant likelihood of receiving a less favorable life insurance rating than an individual employed in a nonhazardous position.

(3) (I) THE SECRETARY~~, IN CONSULTATION WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE, SHALL DEVELOP AND IMPLEMENT A BONA FIDE WELLNESS PROGRAM, AS DEFINED IN § 15–509 OF THE INSURANCE ARTICLE, FOR INCLUSION IN THE PROGRAM~~ SHALL INCLUDE A WELLNESS PROGRAM IN THE PROGRAM.

(II) THE ~~BONA FIDE~~ WELLNESS PROGRAM SHALL:

1. ~~INCLUDE A HEALTH RISK ASSESSMENT FOR ALL ENROLLEES IN THE PROGRAM~~ BE DEVELOPED IN CONSULTATION WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

2. PROMOTE THE GOALS OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE STATE HEALTH IMPROVEMENT ~~PLAN;~~ PROCESS; AND

3. ~~COMPLY WITH § 15–509 OF THE INSURANCE ARTICLE; AND~~

~~4.~~ AIM TO ACHIEVE SAVINGS IN THE PROGRAM OVER TIME THAT EXCEED THE COSTS OF THE ~~BONA FIDE~~ WELLNESS PROGRAM.

~~(III) THE BONA FIDE WELLNESS PROGRAM MAY INCLUDE, AS INCENTIVES FOR ACHIEVING HEALTH GOALS:~~

~~1. DISCOUNTED PREMIUMS;~~

~~2. A WAIVER OF ALL OR PART OF A COST–SHARING MECHANISM, SUCH AS DEDUCTIBLES, COPAYMENTS, OR COINSURANCE; AND~~

~~3. ADDITIONAL BENEFITS.~~

~~(IV) TO PROMOTE WELLNESS AMONG PROGRAM ENROLLEES, THE SECRETARY SHALL CONSIDER:~~

~~1. MERGING SICK LEAVE AND ANNUAL LEAVE INTO A SINGLE LEAVE BENEFIT FOR STATE EMPLOYEES; AND~~

~~2. INCLUDING A HIGH–DEDUCTIBLE HEALTH PLAN WITH A HEALTH SAVINGS ACCOUNT AS A HEALTH BENEFIT PLAN OPTION IN THE PROGRAM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That~~, on or before January 1, 2014,~~ the Secretary of Budget and Management shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the ~~General Assembly~~ Senate Finance Committee, the House Appropriations Committee, and the House Health and Government Operations Committee on the implementation of Section 1 of this Act:

(1) within 60 calendar days after the date that the Department releases the request for proposals for administration of health care benefits under the State Employee and Retiree Health and Welfare Benefits Program; and

(2) on or before February 1, 2016.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 209

(Senate Bill 230)

AN ACT concerning

Open Meetings Act – Public Body – Definition

FOR the purpose of altering the definition of a "public body" for the purposes of the Open Meetings Act to include an entity that is created by a memorandum of understanding or a master agreement to which a majority of the county boards of education and the State Department of Education are signatories; ~~requiring the State Department of Education to report on or before a certain date to certain committees regarding the activities and decisions of the Maryland Public Secondary Schools Athletic Association;~~ and generally relating to public bodies under the Open Meetings Act.

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–502(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–502(h)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

10–502.

(a) In this subtitle the following words have the meanings indicated.

(h) (1) "Public body" means an entity that:

(i) consists of at least 2 individuals; and

(ii) is created by:

1. the Maryland Constitution;

2. a State statute;

3. a county or municipal charter;

4. A MEMORANDUM OF UNDERSTANDING OR A MASTER AGREEMENT TO WHICH A MAJORITY OF THE COUNTY BOARDS OF EDUCATION AND THE STATE DEPARTMENT OF EDUCATION ARE SIGNATORIES;

[4.**] 5.** an ordinance;

[5.**] 6.** a rule, resolution, or bylaw;

[6.**] 7.** an executive order of the Governor; or

[7.**] 8.** an executive order of the chief executive authority of a political subdivision of the State.

(2) "Public body" includes:

(i) any multimember board, commission, or committee appointed by the Governor or the chief executive authority of a political subdivision of the State, or appointed by an official who is subject to the policy direction of the Governor or chief executive authority of the political subdivision, if the entity includes in its membership at least 2 individuals not employed by the State or the political subdivision;

(ii) any multimember board, commission, or committee that:

1. is appointed by:

A. an entity in the Executive branch of State government, the members of which are appointed by the Governor, and that otherwise meets the definition of a public body under this subsection; or

B. an official who is subject to the policy direction of an entity described in item A of this item; and

2. includes in its membership at least 2 individuals who are not members of the appointing entity or employed by the State; and

(iii) The Maryland School for the Blind.

(3) "Public body" does not include:

(i) any single member entity;

(ii) any judicial nominating commission;

(iii) any grand jury;

(iv) any petit jury;

(v) the Appalachian States Low Level Radioactive Waste Commission established in § 7–302 of the Environment Article;

(vi) except when a court is exercising rulemaking power, any court established in accordance with Article IV of the Maryland Constitution;

(vii) the Governor's cabinet, the Governor's Executive Council as provided in Title 8, Subtitle 1 of this article, or any committee of the Executive Council;

(viii) a local government's counterpart to the Governor's cabinet, Executive Council, or any committee of the counterpart of the Executive Council;

(ix) except as provided in paragraph (1) of this subsection, a subcommittee of a public body as defined under paragraph (2)(i) of this subsection;

(x) the governing body of a hospital as defined in § 19–301 of the Health – General Article; and

(xi) a self–insurance pool that is established in accordance with Title 19, Subtitle 6 of the Insurance Article or § 9–404 of the Labor and Employment Article by:

1. a public entity, as defined in § 19–602 of the Insurance Article; or

2. a county or municipal corporation, as defined in § 9–404 of the Labor and Employment Article.

~~SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 1 in every even–numbered year, the State Department of Education shall report, in accordance with § 2–1246 of the State Government Article, to the House Committee on Ways and Means and the Senate Education, Health, and Environmental Affairs Committee, regarding the activities and decisions of the Maryland Public Secondary Schools Athletic Association.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 210

(Senate Bill 235)

AN ACT concerning

Baltimore City – Alcoholic Beverages – License Revocation

FOR the purpose of ~~requiring the Board of Liquor License Commissioners for Baltimore City to require a licensee to close to the public the entire operation of the premises for not less than a certain number of days under certain circumstances; prohibiting the appeal of a certain closure~~ ~~prohibiting the Board of Liquor License Commissioners for Baltimore City or a court from staying an order to revoke an alcoholic beverages license until a certain number of days after a license is revoked; providing that a person whose license revocation by the Board is subsequently overturned on appeal is entitled to reimbursement for lost wages as a result of a certain prohibition;~~ *specifying that in Baltimore City, an order by the Board of Liquor License Commissioners to revoke a license may be stayed, pending appeal, only by the court with which the appeal has been filed;* prohibiting a person whose license has been revoked by the Board from giving, serving, dispensing, keeping, or allowing to be consumed any alcoholic beverages until certain circumstances occur; and generally relating to the revocation of an alcoholic beverages license in Baltimore City.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 16–101(c)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 16–103
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

16–101.

(c) **(1)** [Upon] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON** the filing of an appeal, the local licensing board may stay its order until the final determination thereof.

(2) IN BALTIMORE CITY, ~~**THE BOARD OF LIQUOR LICENSE COMMISSIONERS OR A COURT MAY NOT STAY AN ORDER TO REVOKE A LICENSE PENDING JUDICIAL REVIEW UNTIL 45 DAYS AFTER THE LICENSE IS REVOKED**~~ ***AN ORDER BY THE BOARD OF LIQUOR LICENSE COMMISSIONERS TO REVOKE A LICENSE MAY BE STAYED, PENDING APPEAL, ONLY BY THE COURT WITH WHICH THE APPEAL HAS BEEN FILED.***

~~**(3) A PERSON WHOSE LICENSE REVOCATION BY THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY IS SUBSEQUENTLY OVERTURNED ON APPEAL IS ENTITLED TO REIMBURSEMENT FOR LOST WAGES AS A RESULT OF PARAGRAPH (2) OF THIS SUBSECTION.**~~

16–103.

~~**(A) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SUBTITLE, THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY WHEN REVOKING A LICENSE SHALL REQUIRE THE LICENSEE TO CLOSE IMMEDIATELY TO THE PUBLIC THE ENTIRE OPERATION OF THE PREMISES FOR NOT LESS THAN 45 DAYS.**~~

~~**(B) THE CLOSURE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE APPEALED.**~~

A PERSON WHOSE LICENSE HAS BEEN REVOKED BY THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY MAY NOT GIVE, SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED ANY ALCOHOLIC BEVERAGES UNTIL A STAY IS GRANTED IN ACCORDANCE WITH § 16–101(C) OF THIS SUBTITLE OR THE REVOCATION IS REVERSED ON APPEAL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 211

(Senate Bill 237)

AN ACT concerning

Health Occupations – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Acupuncture Board, the State Board of Dietetic Practice, and the State Board of Occupational Therapy Practice in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the boards; requiring that an evaluation of certain boards and the statutes and regulations that relate to certain boards be performed on or before a certain date; requiring the State Acupuncture Board and the State Board of Dietetic Practice to submit certain reports to certain committees of the General Assembly on or before a certain date; making a technical correction to the period for renewal of certain permits under the sunset extension law that continued the State Board of Pharmacy; making technical changes; and generally relating to the ~~State Acupuncture Board, the State Board of Dietetic Practice, and the State Board of Occupational Therapy Practice~~ sunset extension of certain health occupation boards.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 1A–502, 5–101(i), 5–202(b), 5–302(d), 5–305, 5–502, and 10–502
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(1), (16), and (43)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 658 of the Acts of the General Assembly of 2012
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

1A–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, **[**2015**] 2025**.

5–101.

(i) "Registered dietitian" means an individual registered with the Commission on Dietetic Registration, the accrediting body of the **[**American Dietetic Association**] ACADEMY OF NUTRITION AND DIETETICS**.

5–202.

(b) (1) For each licensed dietitian–nutritionist vacancy, the Board shall compile a list of names to be submitted to the Secretary in accordance with this subsection, including at least three names for each of the vacancies.

(2) The Board shall notify all licensed dietitian–nutritionists in the State of the vacancy to solicit nominations to fill the vacancy.

(3) The **[**Maryland Dietetic Association**] MARYLAND ACADEMY OF NUTRITION AND DIETETICS** or the Maryland Nutritionists Association shall nominate qualified individuals to fill the vacancy within 30 days after the notice required in paragraph (2) of this subsection is given.

(4) The **[**Maryland Dietetic Association**] MARYLAND ACADEMY OF NUTRITION AND DIETETICS** may comment on an individual nominated by the Maryland Nutritionists Association under paragraph (3) of this subsection within 30 days after the nomination and before the list is submitted to the Secretary.

(5) The Maryland Nutritionists Association may comment on an individual nominated by the **[**Maryland Dietetic Association**] MARYLAND ACADEMY OF NUTRITION AND DIETETICS** under paragraph (3) of this subsection within 30 days after the nomination and before the list is submitted to the Secretary.

5–302.

(d) The applicant for licensure as a dietitian–nutritionist shall:

(1) (i) 1. Have satisfactorily completed academic requirements for the field of dietetics as approved by the Board; and

2. Have received a baccalaureate degree from a college or university accredited by an educational accrediting association recognized by the Council on Higher Education and Accreditation; or

(ii) Have received a master's or doctoral degree from a college or university accredited by an educational accrediting association recognized by the Council on Higher Education and Accreditation in nutritional sciences (with emphasis in human nutrition), food and nutrition, dietetics, human nutrition, community nutrition, public health nutrition, or equivalent training approved by the Board;

(2) Have satisfactorily completed a program of supervised clinical experience approved by the Board; and

(3) (i) Submit to the Board proof of certification by the Certification Board for Nutritional Specialists; or

(ii) Submit to the Board proof of registration with the Commission on Dietetic Registration of the **[**American Dietetic Association**]** **ACADEMY OF NUTRITION AND DIETETICS**.

5–305.

(a) Subject to the provisions of this section, the Board may waive an examination requirement of this title for an individual who:

(1) Is licensed to practice dietetics in another state or country;

(2) Is registered to practice dietetics by the Commission on Dietetic Registration of the **[**American Dietetic Association**]** **ACADEMY OF NUTRITION AND DIETETICS**; or

(3) Is certified by the Certification Board for Nutrition Specialists.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee set by the Board under § 5–206 of this title; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this subtitle; and

(ii) 1. Became licensed in the other state or country after passing, in that state or country, an examination that the Board determines to be comparable to the examination for which the applicant is seeking the waiver;

2. Became registered by the Commission on Dietetic Registration of the **[**American Dietetic Association**]** **ACADEMY OF NUTRITION AND DIETETICS** after meeting the examination waiver requirements of that Commission or its predecessor; or

3. Became certified by the Certification Board for Nutrition Specialists after meeting the examination waiver requirements of that Certification Board or its predecessor.

5–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2015**]** **2025**.

10–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, **[**2015**]** **2025**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(1) Acupuncture Board, State (§ 1A–201 of the Health Occupations Article: July 1, **[**2014**]** **2024**);

(16) Dietetic Practice, State Board of (§ 5–201 of the Health Occupations Article: July 1, **[**2014**]** **2024**);

(43) Occupational Therapy Practice, State Board of (§ 10–201 of the Health Occupations Article: July 1, **[**2014**]** **2024**);

Chapter 658 of the Acts of 2012

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Pharmacy shall extend the renewal of permits required under §§ 12–407 and 12–6C–06 of the Health Occupations Article, as enacted by Section 1 of this Act, to **[**May 31, 2013, and May 31, 2014,**] MAY 31, 2014, AND MAY 31, 2013,** respectively, for pharmacy permits and wholesale distributor permits expiring on **[**December 31, 2012, and December 31, 2013,**] DECEMBER 31, 2013, AND DECEMBER 31, 2012,** respectively, to accommodate the revised permit renewal date of May 31.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Acupuncture Board shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, that:

(1) builds on the figures provided by the Board in its response to the 2012 Joint Chairmen's Report;

(2) addresses the options suggested by the Department of Legislative Services in the 2012 Preliminary Evaluation of the State Acupuncture Board to keep revenues and expenditures in balance; and

(3) includes any fee increases, changes to the executive director position, and any options for sharing additional resources or pooling funding with other boards and discusses how these changes would modify the Board's fund balance.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Board of Dietetic Practice shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, that recommends any legislative changes to clarify the practice of dietetics and any additional authority the Board needs to address complaints alleging the unlicensed practice of dietetics.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 212

(Senate Bill 238)

AN ACT concerning

State Board of Public Accountancy – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Public Accountancy in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board of Public Accountancy.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–702
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(57)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Occupations and Professions

2–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2015**] 2025**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a

preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(57) Public Accountancy, State Board of (§ 2–201 of the Business Occupations and Professions Article: July 1, **[**2014**] 2024**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Board of Public Accountancy shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on:

(1) fund balances, changes to the target fund balances, and future plans to use any remaining surplus;

(2) findings and recommendations related to the outsourcing of exam application processing; and

(3) (i) the number of peer reviews conducted in each of the previous three calendar years;

(ii) the number of licensees and permit holders that failed, passed with deficiencies, or failed to take corrective action;

(iii) reasons why the board did not previously receive a vast majority of failed peer reviews;

(iv) steps taken by the board with respect to licensees and permit holders who previously failed a peer review; and

(v) actions taken to resolve the inconsistent reporting of failed peer reviews to the board.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 213

(Senate Bill 243)

AN ACT concerning

Maryland Income Tax Refund – Anne Arundel County Warrant Intercept Program – Extension

FOR the purpose of extending the termination date of a certain program that requires the Comptroller to withhold the Maryland income tax refund of certain individuals with outstanding warrants under certain circumstances; requiring the Comptroller to provide a certain report annually; providing for the termination of certain provisions of this Act; and generally relating to withholding income tax refunds for outstanding warrants.

BY adding to
Article – Tax – General
Section 13–940
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Chapter 451 of the Acts of the General Assembly of 2012
Section 2

BY repealing and reenacting, with amendments,
Chapter 451 of the Acts of the General Assembly of 2012
Section 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

13–940.

ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE OFFICE OF THE COMPTROLLER SHALL REPORT TO THE HOUSE WAYS AND MEANS COMMITTEE AND THE SENATE BUDGET AND TAXATION COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION OF §§ 13–935 THROUGH 13–939 OF THIS PART.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 451 of the Acts of 2012

[SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Office of the Comptroller shall report to the House Ways and Means Committee and the Senate Budget and Taxation Committee, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act.**]**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. Section 1 of this Act shall remain effective for a period of **[**1 year**] 6 YEARS** and, at the end of September 30, **[**2013**] 2018**, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. Section 1 of this Act shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter 451 of the Acts of 2012. If that termination provision takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 214

(Senate Bill 244)

AN ACT concerning

City of Annapolis – Alcoholic Beverages – Refillable Container License

FOR the purpose of creating in the City of Annapolis a refillable container license; authorizing the Alcoholic Beverage Control Board to issue the license to a holder of certain classes of alcoholic beverages licenses; specifying that a holder of the license may sell draft beer for consumption off the licensed premises in a certain refillable container; requiring a refillable container to meet certain requirements; requiring an applicant for the license to complete a certain form and pay a certain fee; requiring that certain applicants meet certain advertising, posting of notice, and public hearing requirements; specifying the term of the license; specifying the hours of sale for the license; allowing a holder of the license to refill only a refillable container that was branded by ~~the~~ a license holder; requiring the Alcoholic Beverage Control Board to adopt certain regulations; and generally relating to alcoholic beverages in the City of Annapolis.

BY adding to
Article 2B – Alcoholic Beverages
Section 8–202.2
Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

8–202.2.

(A) THIS SECTION APPLIES ONLY IN THE CITY OF ANNAPOLIS.

(B) THERE IS A REFILLABLE CONTAINER LICENSE.

(C) THE ALCOHOLIC BEVERAGE CONTROL BOARD MAY ISSUE A REFILLABLE CONTAINER LICENSE TO A HOLDER OF A CLASS A LICENSE, *A CLASS B LICENSE*, OR A CLASS D LICENSE.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A REFILLABLE CONTAINER LICENSE ENTITLES THE LICENSE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER WITH A CAPACITY OF *NOT* LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES.

(2) TO BE USED AS A REFILLABLE CONTAINER UNDER PARAGRAPH (1) OF THIS SUBSECTION, A CONTAINER SHALL:

(I) BE SEALABLE;

(II) BE BRANDED WITH AN IDENTIFYING MARK OF ~~THE~~ A LICENSE HOLDER;

(III) BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 27 C.F.R. 16.21;

(IV) DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND

(V) BEAR A LABEL STATING THAT:

1. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND

2. THE CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.

(E) BEFORE THE ALCOHOLIC BEVERAGE CONTROL BOARD ISSUES A REFILLABLE CONTAINER LICENSE:

(1) THE APPLICANT SHALL:

(I) COMPLETE THE FORM THAT THE ALCOHOLIC BEVERAGE CONTROL BOARD PROVIDES; AND

(II) PAY AN ANNUAL LICENSE FEE OF:

1. $500 FOR AN APPLICANT WHOSE ALCOHOLIC BEVERAGES LICENSE DOES NOT HAVE AN OFF–SALE PRIVILEGE; AND

2. $50 FOR AN APPLICANT WHOSE ALCOHOLIC BEVERAGES LICENSE HAS AN OFF–SALE PRIVILEGE; AND

(2) AN APPLICANT THAT HOLDS A LICENSE WITHOUT AN OFF–SALE PRIVILEGE SHALL MEET THE SAME ADVERTISING, POSTING OF NOTICE, AND PUBLIC HEARING REQUIREMENTS AS THOSE FOR THE LICENSE THAT THE APPLICANT HOLDS.

(F) THE TERM OF A REFILLABLE CONTAINER LICENSE ISSUED TO A SUCCESSFUL APPLICANT IS THE SAME AS THAT OF THE LICENSE THAT THE APPLICANT HOLDS.

(G) THE HOURS OF SALE FOR A REFILLABLE CONTAINER LICENSE:

(1) BEGIN AT THE SAME TIME AS THOSE FOR THE LICENSE ALREADY HELD BY THE PERSON TO WHOM THE REFILLABLE CONTAINER LICENSE IS ISSUED; AND

(2) END AT MIDNIGHT.

(H) A LICENSE HOLDER MAY REFILL ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY ~~THE~~ A LICENSE HOLDER.

(I) THE ALCOHOLIC BEVERAGE CONTROL BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 215

(House Bill 145)

AN ACT concerning

City of Annapolis – Alcoholic Beverages – Refillable Container License

FOR the purpose of creating in the City of Annapolis a refillable container license; authorizing the Alcoholic Beverage Control Board to issue the license to a holder of certain classes of alcoholic beverages licenses; specifying that a holder of the license may sell draft beer for consumption off the licensed premises in a certain refillable container; requiring a refillable container to meet certain requirements; requiring an applicant for the license to complete a certain form and pay a certain fee; requiring that certain applicants meet certain advertising, posting of notice, and public hearing requirements; specifying the term of the license; specifying the hours of sale for the license; allowing a holder of the license to refill only a refillable container that was branded by ~~the~~ a license holder; requiring the Alcoholic Beverage Control Board to adopt certain regulations; and generally relating to alcoholic beverages in the City of Annapolis.

BY adding to
Article 2B – Alcoholic Beverages
Section 8–202.2
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

8–202.2.

(A) THIS SECTION APPLIES ONLY IN THE CITY OF ANNAPOLIS.

(B) THERE IS A REFILLABLE CONTAINER LICENSE.

(C) THE ALCOHOLIC BEVERAGE CONTROL BOARD MAY ISSUE A REFILLABLE CONTAINER LICENSE TO A HOLDER OF A CLASS A LICENSE, *A CLASS B LICENSE*, OR A CLASS D LICENSE.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A REFILLABLE CONTAINER LICENSE ENTITLES THE LICENSE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER WITH A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN ~~182~~ 128 OUNCES.

(2) TO BE USED AS A REFILLABLE CONTAINER UNDER PARAGRAPH (1) OF THIS SUBSECTION, A CONTAINER SHALL:

(I) BE SEALABLE;

(II) BE BRANDED WITH AN IDENTIFYING MARK OF ~~THE~~ A LICENSE HOLDER;

(III) BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 27 C.F.R. 16.21;

(IV) DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND

(V) BEAR A LABEL STATING THAT:

1. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND

2. THE CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.

(E) BEFORE THE ALCOHOLIC BEVERAGE CONTROL BOARD ISSUES A REFILLABLE CONTAINER LICENSE:

(1) THE APPLICANT SHALL:

(I) COMPLETE THE FORM THAT THE ALCOHOLIC BEVERAGE CONTROL BOARD PROVIDES; AND

(II) PAY AN ANNUAL LICENSE FEE OF:

1. $500 FOR AN APPLICANT WHOSE ALCOHOLIC BEVERAGES LICENSE DOES NOT HAVE AN OFF–SALE PRIVILEGE; AND

2. $50 FOR AN APPLICANT WHOSE ALCOHOLIC BEVERAGES LICENSE HAS AN OFF–SALE PRIVILEGE; AND

(2) AN APPLICANT THAT HOLDS A LICENSE WITHOUT AN OFF–SALE PRIVILEGE SHALL MEET THE SAME ADVERTISING, POSTING OF NOTICE, AND PUBLIC HEARING REQUIREMENTS AS THOSE FOR THE LICENSE THAT THE APPLICANT HOLDS.

(F) THE TERM OF A REFILLABLE CONTAINER LICENSE ISSUED TO A SUCCESSFUL APPLICANT IS THE SAME AS THAT OF THE LICENSE THAT THE APPLICANT HOLDS.

(G) THE HOURS OF SALE FOR A REFILLABLE CONTAINER LICENSE:

(1) BEGIN AT THE SAME TIME AS THOSE FOR THE LICENSE ALREADY HELD BY THE PERSON TO WHOM THE REFILLABLE CONTAINER LICENSE IS ISSUED; AND

(2) END AT MIDNIGHT.

(H) A LICENSE HOLDER MAY REFILL ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY ~~THE~~ A LICENSE HOLDER.

(I) THE ALCOHOLIC BEVERAGE CONTROL BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 216

(Senate Bill 245)

AN ACT concerning

School Buildings – Solar Technology – Design Development Documents

FOR the purpose of requiring the Board of Public Works to adopt certain regulations requiring certain design development documents for the construction or major renovation of school buildings to include certain information relating to the use of solar technology; requiring the Interagency Committee on School Construction to submit a certain report that includes certain information to the Governor and the General Assembly on or before a certain date each year; and generally relating to school buildings and solar technology.

BY ~~repealing and reenacting, with amendments,~~ adding to
Article – Education
Section ~~5–301.1~~ 5–301.2
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, State and county school buildings offer large flat surfaces that are ideal for the installation of solar panels; and

WHEREAS, School buildings are also usually a great distance away from tall buildings and trees, making them ideally exposed to sunlight; and

WHEREAS, In these times of tight school board budgets, the generation of electricity could provide local school boards with an additional funding source or cost–saving measure; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

~~5–301.1.~~

~~(a) (1) There is a solar energy pilot program to promote the use of solar energy systems to generate electricity in public school buildings in the State.~~

~~(2) The pilot program shall be implemented and administered by the Interagency Committee on School Construction and shall operate as provided in this section.~~

~~(b) The Interagency Committee shall:~~

~~(1) Encourage all local boards in the State to study, design, and construct or renovate school buildings that are energy efficient and use solar energy systems to generate electricity to meet some of the school building's electrical energy needs, electrical energy demand, or a combination of the electrical energy needs and electrical energy demand;~~

~~(2) Provide grants out of State funds dedicated for this program to local boards to assist in implementing the use of solar energy systems at existing public schools or in new or renovated school building projects; and~~

~~(3) Develop a procedure for a local board to apply for a grant in accordance with subsection (c) of this section.~~

~~(c) (1) A local board may apply to the Interagency Committee for a grant to cover 90% of the cost to purchase and install a solar energy system to generate a portion of the school building's electrical energy needs or electrical energy demand.~~

~~(2) A local board that receives a grant under this subsection shall pay:~~

~~(i) 10% of the cost to purchase and install the solar energy system; and~~

~~(ii) All architectural or engineering fees for the design and supervision of the installation of the solar energy system.~~

~~(3) The Interagency Committee may award a grant under this section for a solar energy system project with the approval of the Board of Public Works.~~

~~(d) Local school systems are encouraged to seek private funding to implement the pilot program.~~

~~(e) The total savings of electrical energy needs and electrical energy demand costs that result from the installation and use of solar energy systems under this section shall remain with the local school system.~~

~~(f) (1) The Interagency Committee and the Maryland Energy Administration shall cooperate with, assist, provide technical assistance to, and advise school systems to identify appropriate existing public school buildings and public school construction projects that would benefit from the installation of solar energy systems.~~

~~(2) The Interagency Committee shall adopt procedures necessary to implement this section.~~

5–301.2.

~~(G)~~ (A) **THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS THAT REQUIRE THE DESIGN DEVELOPMENT DOCUMENTS FOR THE CONSTRUCTION OR MAJOR RENOVATION OF SCHOOL BUILDINGS SUBMITTED BY A COUNTY BOARD TO THE INTERAGENCY COMMITTEE TO INCLUDE:**

(1) AN EVALUATION OF THE USE OF SOLAR TECHNOLOGIES, INCLUDING PHOTOVOLTAIC OR SOLAR WATER HEATING, BASED ON LIFE CYCLE COSTS; AND

(2) IF AN EVALUATION DETERMINES THAT SOLAR TECHNOLOGIES ARE NOT APPROPRIATE FOR A CONSTRUCTION OR MAJOR RENOVATION PROJECT, A REPORT THAT EXPLAINS WHY THE USE OF THE TECHNOLOGY IS NOT APPROPRIATE.

~~(II)~~ (B) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE INTERAGENCY COMMITTEE SHALL SUBMIT A REPORT ON THE NUMBER OF PUBLIC SCHOOL CONSTRUCTION AND MAJOR RENOVATION PROJECTS IN EACH JURISDICTION THAT USE SOLAR TECHNOLOGIES TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 217

(House Bill 103)

AN ACT concerning

School Buildings – Solar Technology – Design Development Documents

FOR the purpose of requiring the Board of Public Works to adopt certain regulations requiring certain design development documents for the construction or major renovation of school buildings to include certain information relating to the use of solar technology; requiring the Interagency Committee on School Construction to submit a certain report that includes certain information to the Governor and the General Assembly on or before a certain date each year; and generally relating to school buildings and solar technology.

BY ~~repealing and reenacting, with amendments,~~ adding to
Article – Education
Section ~~5–301.1~~ 5–301.2
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, State and county school buildings offer large flat surfaces that are ideal for the installation of solar panels; and

WHEREAS, School buildings are also usually a great distance away from tall buildings and trees, making them ideally exposed to sunlight; and

WHEREAS, In these times of tight school board budgets, the generation of electricity could provide local school boards with an additional funding source or cost–saving measure; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

~~5–301.1.~~

~~(a) (1) There is a solar energy pilot program to promote the use of solar energy systems to generate electricity in public school buildings in the State.~~

~~(2) The pilot program shall be implemented and administered by the Interagency Committee on School Construction and shall operate as provided in this section.~~

~~(b) The Interagency Committee shall:~~

~~(1) Encourage all local boards in the State to study, design, and construct or renovate school buildings that are energy efficient and use solar energy systems to generate electricity to meet some of the school building's electrical energy needs, electrical energy demand, or a combination of the electrical energy needs and electrical energy demand;~~

~~(2) Provide grants out of State funds dedicated for this program to local boards to assist in implementing the use of solar energy systems at existing public schools or in new or renovated school building projects; and~~

~~(3) Develop a procedure for a local board to apply for a grant in accordance with subsection (c) of this section.~~

~~(c) (1) A local board may apply to the Interagency Committee for a grant to cover 90% of the cost to purchase and install a solar energy system to generate a portion of the school building's electrical energy needs or electrical energy demand.~~

~~(2) A local board that receives a grant under this subsection shall pay:~~

~~(i) 10% of the cost to purchase and install the solar energy system; and~~

~~(ii) All architectural or engineering fees for the design and supervision of the installation of the solar energy system.~~

~~(3) The Interagency Committee may award a grant under this section for a solar energy system project with the approval of the Board of Public Works.~~

~~(d) Local school systems are encouraged to seek private funding to implement the pilot program.~~

~~(e) The total savings of electrical energy needs and electrical energy demand costs that result from the installation and use of solar energy systems under this section shall remain with the local school system.~~

~~(f) (1) The Interagency Committee and the Maryland Energy Administration shall cooperate with, assist, provide technical assistance to, and advise school systems to identify appropriate existing public school buildings and public school construction projects that would benefit from the installation of solar energy systems.~~

~~(2) The Interagency Committee shall adopt procedures necessary to implement this section.~~

5–301.2.

~~(G)~~ (A) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS THAT REQUIRE THE DESIGN DEVELOPMENT DOCUMENTS FOR THE CONSTRUCTION OR MAJOR RENOVATION OF SCHOOL BUILDINGS SUBMITTED BY A COUNTY BOARD TO THE INTERAGENCY COMMITTEE TO INCLUDE:

(1) AN EVALUATION OF THE USE OF SOLAR TECHNOLOGIES, INCLUDING PHOTOVOLTAIC OR SOLAR WATER HEATING, BASED ON LIFE CYCLE COSTS; AND

(2) IF AN EVALUATION DETERMINES THAT SOLAR TECHNOLOGIES ARE NOT APPROPRIATE FOR A CONSTRUCTION OR MAJOR RENOVATION PROJECT, A REPORT THAT EXPLAINS WHY THE USE OF THE TECHNOLOGY IS NOT APPROPRIATE.

~~(H)~~ (B) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE INTERAGENCY COMMITTEE SHALL SUBMIT A REPORT ON THE NUMBER OF PUBLIC SCHOOL CONSTRUCTION AND MAJOR RENOVATION PROJECTS IN EACH JURISDICTION THAT USE SOLAR TECHNOLOGIES TO THE GOVERNOR AND, IN

ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 218

(Senate Bill 254)

AN ACT concerning

State Board of Examiners of Psychologists – License Renewal

FOR the purpose of altering the time period before a license expires by which the Board of Examiners of Psychologists is required to send a renewal notice to a licensee; requiring the Board, under certain circumstances, to send a renewal notice by electronic means to a certain electronic mail address of a licensee; requiring the Board, under certain circumstances, to send a renewal notice to a licensee by first–class mail to a certain address of the licensee; requiring each licensee to notify the Board in writing of any change in address or electronic mail address within a certain number of days after the change occurs; making certain stylistic changes; and generally relating to license renewal by the State Board of Examiners of Psychologists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 18–309
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

18–309.

(a) **(1)** A license expires on the date set by the Board, unless it is renewed for an additional term as provided in this section.

(2) A license may not be renewed for a term longer than 2 years.

(b) **(1)** At least **[**1 month**] 90 DAYS** before the license expires, the Board shall send **A RENEWAL NOTICE** to the licensee**[**, by**]:**

(I) [first–class**] BY FIRST–CLASS** mail to the last known address of the licensee**[**, a renewal notice that states:**]; OR**

(II) IF REQUESTED BY THE LICENSEE, BY ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC MAIL ADDRESS OF THE LICENSEE.

(2) IF A RENEWAL NOTICE SENT BY ELECTRONIC MEANS UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION IS RETURNED TO THE BOARD AS UNDELIVERABLE, THE BOARD SHALL SEND A RENEWAL NOTICE TO THE LICENSEE BY FIRST–CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE.

(C) THE RENEWAL NOTICE SENT UNDER SUBSECTION (B) OF THIS SECTION SHALL STATE:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(D) EACH LICENSEE SHALL NOTIFY THE BOARD IN WRITING OF ANY CHANGE IN THE LICENSEE'S ADDRESS OR ELECTRONIC MAIL ADDRESS WITHIN 30 DAYS AFTER THE CHANGE OCCURS.

[(c)**] (E)** Before the license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license renewal.

[(d)**] (F)** (1) The Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

(2) The requirements established under this subsection shall be:

(i) Set by the Board as to the amount and type of study required; and

(ii) Standard for all licensed psychologists.

[(e)**] (G)** The Board shall renew the license of each licensee who meets the requirements of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 219

(House Bill 98)

AN ACT concerning

State Board of Examiners of Psychologists – License Renewal

FOR the purpose of altering the time period before a license expires by which the Board of Examiners of Psychologists is required to send a renewal notice to a licensee; requiring the Board, under certain circumstances, to send a renewal notice by electronic means to a certain electronic mail address of a licensee; requiring the Board, under certain circumstances, to send a renewal notice to a licensee by first–class mail to a certain address of the licensee; requiring each licensee to notify the Board in writing of any change in address or electronic mail address within a certain number of days after the change occurs; making certain stylistic changes; and generally relating to license renewal by the State Board of Examiners of Psychologists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 18–309
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

18–309.

(a) **(1)** A license expires on the date set by the Board, unless it is renewed for an additional term as provided in this section.

(2) A license may not be renewed for a term longer than 2 years.

(b) **(1)** At least **[**1 month**] 90 DAYS** before the license expires, the Board shall send **A RENEWAL NOTICE** to the licensee**[**, by**]:**

(I) [first–class**] BY FIRST–CLASS** mail to the last known address of the licensee**[**, a renewal notice that states:**]; OR**

(II) IF REQUESTED BY THE LICENSEE, BY ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC MAIL ADDRESS OF THE LICENSEE.

(2) IF A RENEWAL NOTICE SENT BY ELECTRONIC MEANS UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION IS RETURNED TO THE BOARD AS UNDELIVERABLE, THE BOARD SHALL SEND A RENEWAL NOTICE TO THE LICENSEE BY FIRST–CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE.

(C) THE RENEWAL NOTICE SENT UNDER SUBSECTION (B) OF THIS SECTION SHALL STATE:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(D) EACH LICENSEE SHALL NOTIFY THE BOARD IN WRITING OF ANY CHANGE IN THE LICENSEE'S ADDRESS OR ELECTRONIC MAIL ADDRESS WITHIN 30 DAYS AFTER THE CHANGE OCCURS.

[(c)**] (E)** Before the license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license renewal.

[(d)**] (F)** (1) The Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

(2) The requirements established under this subsection shall be:

(i) Set by the Board as to the amount and type of study required; and

(ii) Standard for all licensed psychologists.

[(e)**] (G)** The Board shall renew the license of each licensee who meets the requirements of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 220

(Senate Bill 269)

AN ACT concerning

State Retirement and Pension System – Correction of Errors in Benefits

FOR the purpose of altering the conditions under which the Board of Trustees for the State Retirement and Pension System is required to correct an error that results in a retiree or beneficiary receiving a benefit that differs from the benefit the retiree or beneficiary is entitled to receive; and generally relating to administering benefits from the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–113(a)
Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

21–113.

(a) Except as provided in § 29–402 of this article, if, because of an error **[**in the records of the several systems**]**, a retiree or beneficiary receives a benefit that differs from the benefit the retiree or beneficiary is entitled to receive, the Board of Trustees shall:

(1) correct the error; and

(2) to the extent practicable, adjust the payment to the retiree or beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is correctly entitled.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 221

(House Bill 376)

AN ACT concerning

State Retirement and Pension System – Correction of Errors in Benefits

FOR the purpose of altering the conditions under which the Board of Trustees for the State Retirement and Pension System is required to correct an error that results in a retiree or beneficiary receiving a benefit that differs from the benefit the retiree or beneficiary is entitled to receive; and generally relating to administering benefits from the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–113(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

21–113.

(a) Except as provided in § 29–402 of this article, if, because of an error **[**in the records of the several systems**]**, a retiree or beneficiary receives a benefit that differs from the benefit the retiree or beneficiary is entitled to receive, the Board of Trustees shall:

(1) correct the error; and

(2) to the extent practicable, adjust the payment to the retiree or beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is correctly entitled.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 222

(Senate Bill 302)

AN ACT concerning

Environment – Water Pollution Control – Reporting ~~and Penalties~~

FOR the purpose of requiring the Department of the Environment to publish annually on its Web site the total amount of sewage overflow into the Chesapeake Bay and its tributaries and the total amount of fines collected by the Department as a result of sewage overflows into the Chesapeake Bay and its tributaries; ~~altering certain civil and administrative penalties for violations of certain provisions relating to water pollution control;~~ and generally relating to water pollution control.

BY adding to
Article – Environment
Section 9–317
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Environment~~
~~Section 9–342~~
~~Annotated Code of Maryland~~
~~(2007 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

9–317.

THE DEPARTMENT SHALL PUBLISH ANNUALLY ON ITS WEB SITE THE TOTAL AMOUNT OF:

(1) SEWAGE OVERFLOW, IN GALLONS, FROM STATE SEWERAGE SYSTEMS INTO THE CHESAPEAKE BAY AND ITS TRIBUTARIES DURING THE PREVIOUS YEAR; AND

(2) FINES COLLECTED AS A RESULT OF SEWAGE OVERFLOWS INTO THE CHESAPEAKE BAY AND ITS TRIBUTARIES DURING THE PREVIOUS YEAR.

~~9–342.~~

~~(a) In addition to being subject to an injunctive action under this subtitle, a person who violates any provision of this subtitle or of any rule, regulation, order, or permit adopted or issued under this subtitle is liable to a civil penalty not exceeding **[**$10,000**] $20,000**, to be collected in a civil action brought by the Department. Each day a violation occurs is a separate violation under this subsection.~~

~~(b) (1) In addition to any other remedies available at law or in equity and after an opportunity for a hearing which may be waived in writing by the person accused of a violation, the Department may impose a penalty for violation of any provision of this subtitle or any rule, regulation, order, or permit adopted or issued under this subtitle.~~

~~(2) The penalty imposed on a person under this subsection shall be:~~

~~(i) Up to **[**$5,000**] $10,000** for each violation, but not exceeding **[**$50,000**] $100,000** total; and~~

~~(ii) Assessed with consideration given to:~~

~~1. The willfulness of the violation, the extent to which the existence of the violation was known to but uncorrected by the violator, and the extent to which the violator exercised reasonable care;~~

~~2. Any actual harm to the environment or to human health, including injury to or impairment of the use of the waters of this State or the natural resources of this State;~~

~~3. The cost of cleanup and the cost of restoration of natural resources;~~

~~4. The nature and degree of injury to or interference with general welfare, health, and property;~~

~~5. The extent to which the location of the violation, including location near waters of this State or areas of human population, creates the potential for harm to the environment or to human health or safety;~~

~~6. The available technology and economic reasonableness of controlling, reducing, or eliminating the violation;~~

~~7. The degree of hazard posed by the particular pollutant or pollutants involved; and~~

~~8. The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.~~

~~(3) Each day a violation occurs is a separate violation under this subsection.~~

~~(4) Any penalty imposed under this subsection is payable to this State and collectible in any manner provided at law for the collection of debts.~~

~~(5) If any person who is liable to pay a penalty imposed under this subsection fails to pay it after demand, the amount, together with interest and any costs that may accrue, shall be:~~

~~(i) A lien in favor of this State on any property, real or personal, of the person; and~~

~~(ii) Recorded in the office of the clerk of court for the county in which the property is located.~~

~~(6) Any penalty collected under this subsection shall be placed in a special fund to be used for monitoring and surveillance by the Department to assure and maintain an adequate record of any violations, including discharge of waste material and other pollutants into the waters of this State or into the environment.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 223

(Senate Bill 304)

AN ACT concerning

Calvert County – Election Judges – Compensation

FOR the purpose of altering the compensation for chief election judges and election judges in Calvert County; providing that this Act does not apply to the compensation of incumbent chief election judges or election judges in Calvert County; and generally relating to compensation for chief election judges and election judges in Calvert County.

BY repealing and reenacting, without amendments,
Article – Election Law
Section 10–205(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 10–205(b)(4)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Election Law

10–205.

(a) (1) A local board may fix the compensation of election judges within the limits authorized for this purpose by the county's governing body.

(2) A local board shall pay an election judge for each election day and each early voting day that the election judge actually serves.

(b) (4) In Calvert County, the compensation for each election day or early voting day actually served shall be:

(i) **[**$125**] $200** per day for each chief election judge; and

(ii) **[**$100**] $175** per day for every other election judge.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the compensation of the chief election judges and election judges in Calvert County during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the compensation of the chief election judges and election judges in Calvert County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act, this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 224

(Senate Bill 305)

AN ACT concerning

Division of Labor and Industry and Associated Boards and Councils – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Amusement Ride Safety Advisory Board, the Occupational Safety and Health Advisory Board, the Apprenticeship and Training Council, and the Board of Boiler Rules in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the boards and council; altering certain termination provisions to apply only to certain boards and a certain council; repealing the termination provision for the Division of Labor and Industry; repealing a certain termination provision that applies to the regulation of the employment of minors and wages and hours; requiring that an evaluation be made of the Division of Labor and Industry on or before a certain date; repealing the Advisory Council on Prevailing Wage Rates; repealing the requirement that certain employment agencies submit to the Commissioner of Labor and Industry a certain penal bond and related provisions of law; requiring the Prevailing Wage Unit to advise and submit recommendations to the Commissioner regarding the Commissioner's functions under certain provisions

of law; ~~authorizing~~ *requiring* the Commissioner to ask certain units of State and local governments to provide certain information to the Prevailing Wage Unit; authorizing the Commissioner to conduct, under certain circumstances, an investigation regarding whether certain provisions of law have been violated; ~~authorizing~~ *requiring* the Commissioner to take certain actions regarding the violation of certain provisions of law; authorizing the Attorney General to take certain actions under certain provisions of this Act; authorizing the Commissioner to assess a certain civil fine for a violation of a certain provision of law; altering a certain reporting requirement; altering the minimum number of times the State Board of Stationary Engineers is required to meet with and consult the Board of Boiler Rules each year; requiring the Board of Boiler Rules to meet with and consult the State Board of Stationary Engineers at least ~~a certain number of times a~~ one time each year; requiring the Division to submit a certain report to certain committees of the General Assembly on or before a certain date; requiring the Workplace Fraud Unit to submit a certain report to the General Assembly on or before a certain date; requiring the Commissioner to submit a certain report to the Governor and the General Assembly on or before a certain date; repealing a certain definition; and generally relating to the Division of Labor and Industry and associated boards and councils.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6.5–204(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Business Regulation
Section 3–315
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article – Business Regulation
Section 3–601; 9–201 and 9–202 and the Subtitle "Subtitle 2. Administration and Enforcement"; and 9–301
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 9–101
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment

Section 2–107(f), 3–103, 3–704, 3–712, 3–801, 3–802, 3–914, 3–920, and 11–402
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing
Article – Labor and Employment
Section 2–109, 3–706, and 5–607
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Labor and Employment
Section 3–306.1, 3–608, 3–1008, and 5–306
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–904 and 12–919
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article – State Finance and Procurement
Section 17–203
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(2), (3), (9), (33), and (42)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing
Article – State Government
Section 8–403(b)(55)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY renumbering
Article – State Government
Section 8–403(b)(56) through (69), respectively
to be Section 8–403(b)(55) through (68), respectively
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Occupations and Professions

6.5–204.

(b) (1) The Board shall meet at least twice a year at a location and in an office provided by the State.

(2) The Board may hold special meetings as provided in its regulations.

(3) The Board shall meet with and consult the Board of Boiler Rules as necessary but **[**not less than two times**]** **AT LEAST ONE TIME** each year.

Article – Business Regulation

3–315.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, §§ 3–301 AND 3–303 THROUGH 3–311 OF THIS SUBTITLE SHALL TERMINATE ON JULY 1, 2024.

[3–601.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on July 1, 2014.**]**

9–101.

(a) In this title the following words have the meanings indicated.

(b) "Client" means an individual who seeks employment through an employment agency.

(c) **[**"Commissioner" means the Commissioner of Labor and Industry.

(d)**]** (1) "Employment agency" means a person who, for a fee:

(i) obtains, offers to obtain, or attempts to obtain:

1. an employee for a person who seeks an employee; or

2. employment for a client;

(ii) provides to a client information to enable the client to obtain employment;

(iii) obtains, offers to obtain, or attempts to obtain employment or an engagement in connection with an entertainment, exhibition, or performance, including:

1. a ballet;

2. a circus;

3. a concert;

4. the legitimate theater;

5. modeling;

6. a motion picture;

7. an opera;

8. a phonograph recording;

9. the radio;

10. a transcription;

11. television;

12. the variety field; or

13. vaudeville; or

(iv) 1. obtains, offers to obtain, or attempts to obtain an alien labor certification or immigrant visa for an individual; and

2. participates directly or indirectly in the recruitment or supply of an individual who resides outside of the continental United States for employment in the continental United States.

(2) "Employment agency" does not include a person who merely:

(i) conducts a business that directly employs individuals to provide part–time or temporary services to another person;

(ii) as a lawyer, directly obtains an immigrant visa for an individual;

(iii) conducts a business that:

1. receives a fee that is paid wholly by an employer;

2. does not collect money from an individual seeking employment; and

3. does not require an individual seeking employment to make a contract; or

(iv) operates a nursing referral service agency that is licensed under Title 19, Subtitle 4B of the Health – General Article.

[Subtitle 2. Administration and Enforcement.**]**

[9–201.

The Commissioner may delegate any power or duty of the Commissioner under this title.**]**

[9–202.

The Commissioner shall pay all money collected under this title into the General Fund of the State.**]**

[9–301.

(a) An employment agency shall submit to the Commissioner a penal bond.

(b) The bond shall:

(1) run to the State;

(2) be in the amount of $7,000;

(3) be signed by an individual authorized to do so by the employment agency as principal and by a surety company authorized to do business in the State as surety; and

(4) be conditioned that the employment agency will comply with this title and will pay to any person all damages caused by deceit, fraud, misrepresentation, or misstatement of the employment agency or an agent or employee of the employment agency.

(c) To ensure that each employment agency submits the penal bond in accordance with this section, the Commissioner may initiate an investigation or investigate a complaint that an employment agency has failed to submit a penal bond.

(d) If, after investigation, the Commissioner finds that an employment agency has failed to submit a penal bond as required by this section, the Commissioner shall give written notice that directs the employment agency, within 15 days after receipt of the notice:

(1) to submit the required bond; or

(2) to show written cause why the employment agency is not required to comply with this section.

(e) (1) If the employment agency complies with the requirement to submit a bond or otherwise submits a timely response, the Commissioner may:

(i) terminate proceedings against the employment agency; or

(ii) schedule a hearing and, by certified mail, give the employment agency written notice of the date, place, and time of the hearing.

(2) If the employment agency fails to comply with a lawful order of the Commissioner or fails to submit a timely response, the Commissioner may impose a civil penalty of not less than $500 and not more than $1,000 for each failure to comply with the order or failure to submit a timely report.

(f) If after a hearing, the Commissioner finds that the employment agency has violated the provisions of this section, the Commissioner may impose a civil penalty of not less than $500 and not more than $1,000 for each violation of this section.**]**

Article – Labor and Employment

2–107.

(f) (1) There is a Prevailing Wage Unit in the Division.

(2) Under the direction of the Commissioner, the Prevailing Wage Unit shall administer and enforce Title 17, Subtitle 2 of the State Finance and Procurement Article.

(3) (I) THE PREVAILING WAGE UNIT SHALL ADVISE AND SUBMIT RECOMMENDATIONS TO THE COMMISSIONER ON THE COMMISSIONER'S

FUNCTIONS UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(II) THE COMMISSIONER ~~MAY~~ *SHALL* ASK OTHER UNITS OF THE STATE GOVERNMENT OR UNITS OF LOCAL GOVERNMENTS TO PROVIDE STATISTICAL DATA, REPORTS, AND OTHER INFORMATION TO HELP THE PREVAILING WAGE UNIT CARRY OUT ITS DUTIES.

[2–109.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title shall terminate and be of no effect after July 1, 2014.**]**

3–103.

(a) **[**The**] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE** Commissioner may conduct an investigation **[**under Subtitle 2 of**] TO DETERMINE WHETHER A PROVISION OF** this title**[**,**] HAS BEEN VIOLATED** on the Commissioner's own initiative or may require a written complaint.

(b) The Commissioner may conduct an investigation under Subtitle **[**4**] 3** of this title, on the Commissioner's own initiative or on receipt of a written complaint **OF AN EMPLOYEE**.

(c) The Commissioner may conduct an investigation to determine whether Subtitle 5 of this title has been violated on receipt of a written complaint of an employee.

(D) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER SUBTITLE 6 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF A SALES REPRESENTATIVE.

[(d)**] (E)** (1) The Commissioner may investigate whether § 3–701 of this title has been violated on receipt of a written complaint of an applicant for employment.

(2) The Commissioner may investigate whether § 3–702 of this title has been violated on receipt of a written complaint of an applicant for employment or an employee.

(3) THE COMMISSIONER MAY INVESTIGATE WHETHER § 3–704 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.

[(3)**] (4)** The Commissioner may investigate whether § 3–710 of this title has been violated on receipt of a written complaint of an employee as provided in § 3–710(d)(1) of this title.

(5) THE COMMISSIONER MAY INVESTIGATE WHETHER § 3–711 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE AS PROVIDED IN § 3–711(D)(1) OF THIS TITLE.

(6) THE COMMISSIONER MAY INVESTIGATE WHETHER § 3–712 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE OR APPLICANT.

(F) (1) THE COMMISSIONER MAY INVESTIGATE WHETHER § 3–801 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.

(2) THE COMMISSIONER MAY INVESTIGATE WHETHER § 3–802 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.

[(e)**] (G)** The Commissioner may investigate whether Subtitle 9 of this title has been violated:

(1) on the Commissioner's own initiative;

(2) on receipt of a written complaint signed by the person submitting the complaint; or

(3) on referral from another unit of State government.

(H) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER SUBTITLE 10 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.

3–306.1.

(A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER ~~MAY~~ *SHALL*:

(1) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR

(2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.

(B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

3–608.

(A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER ~~MAY~~ *SHALL*:

(1) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR

(2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.

(B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

3–704.

(a) (1) In this section the following words have the meanings indicated.

(2) "Managerial employee" means an employee who:

(i) is not covered by a collective bargaining agreement;

(ii) as primary duty of the employee, manages an enterprise or a unit of the enterprise that customarily is considered a department or subdivision of the enterprise;

(iii) customarily and regularly supervises at least 2 other employees in the enterprise or unit;

(iv) customarily and regularly exercises discretionary powers; and

(v) may hire or fire another employee or makes recommendations that affect the hiring, advancement, firing, or any other change in status of another employee.

(3) "Part–time employee" means an employee who is employed for a workweek of less than 25 hours.

(4) "Professional employee" means an employee whose primary duty is to work in a field that requires advanced knowledge that customarily is acquired by a prolonged course of specialized instruction and study.

(b) (1) This subsection does not apply during an emergency that a federal, State, or local governmental authority declares.

(2) An employee in a retail establishment may choose, as a day of rest, Sunday or the sabbath of the employee unless:

(i) outside Wicomico County, the employee is a managerial employee, professional employee, or part–time employee; and

(ii) in Wicomico County, the employee is a managerial employee or professional employee.

(3) An employee who chooses a day of rest:

(i) shall give written notice to the employer; and

(ii) during the course of employment, may change the day of rest by giving written notice of the change to the employer at least 30 days before its effective date.

(c) (1) This subsection does not apply to a managerial employee or professional employee or, outside Wicomico County, a part–time employee.

(2) If an employer compels an employee to work on the day of rest that the employee chooses under subsection (b) of this section, the employee is entitled to bring an action against the employer to recover 3 times the regular rate of pay of the employee for each hour the employee works on that day.

(d) This section may not be applied to abridge any right that a collective bargaining agreement grants to a part–time employee or other employee.

(e) This section does not affect the laws that relate to:

(1) the sale of alcoholic beverages on Sunday; or

(2) service of process on Sunday.

(f) An employer may not:

(1) discharge, discipline, discriminate against, or otherwise penalize an employee who chooses a day of rest; or

(2) require an applicant for employment who seeks a workweek of at least 25 hours to answer any question to identify the day that the applicant chooses as a day of rest.

(G) (1) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SECTION HAS BEEN VIOLATED, THE COMMISSIONER ~~MAY~~ *SHALL*:

(I) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR

(II) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.

(2) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SUBSECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

[(g)**] (H)** (1) This subsection does not apply to an agent or supervisory employee of an employer who violates any provision of this section if the employer authorizes, directs, or otherwise causes the agent or supervisory employee to violate the provision.

(2) Outside Wicomico County, an employer who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine of not less than $250 or more than $500.

(3) In Wicomico County, a person who violates any provision of this section is guilty of a misdemeanor and on conviction, for each employee who is caused, directed, permitted, or authorized to work:

(i) for a first conviction, is subject to a fine not exceeding $500; and

(ii) for a second conviction, is subject to a fine not exceeding $1,000.

[(h)**] (I)** In Wicomico County, the State's Attorney may file a complaint to enjoin a violation of this section.

[3–706.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, Subtitles 2 and 4 of this title shall terminate and be of no effect after July 1, 2014.**]**

3–712.

(a) (1) In this section the following words have the meanings indicated.

(2) "Applicant" means an applicant for employment.

(3) (i) "Electronic communications device" means any device that uses electronic signals to create, transmit, and receive information.

(ii) "Electronic communications device" includes computers, telephones, personal digital assistants, and other similar devices.

(4) (i) "Employer" means:

1. a person engaged in a business, an industry, a profession, a trade, or other enterprise in the State; or

2. a unit of State or local government.

(ii) "Employer" includes an agent, a representative, and a designee of the employer.

(b) (1) Subject to paragraph (2) of this subsection, an employer may not request or require that an employee or applicant disclose any user name, password, or other means for accessing a personal account or service through an electronic communications device.

(2) An employer may require an employee to disclose any user name, password, or other means for accessing nonpersonal accounts or services that provide access to the employer's internal computer or information systems.

(c) An employer may not:

(1) discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or otherwise penalize an employee for an employee's refusal to disclose any information specified in subsection (b)(1) of this section; or

(2) fail or refuse to hire any applicant as a result of the applicant's refusal to disclose any information specified in subsection (b)(1) of this section.

(d) An employee may not download unauthorized employer proprietary information or financial data to an employee's personal Web site, an Internet Web site, a Web–based account, or a similar account.

(e) This section does not prevent an employer:

(1) based on the receipt of information about the use of a personal Web site, Internet Web site, Web–based account, or similar account by an employee for

business purposes, from conducting an investigation for the purpose of ensuring compliance with applicable securities or financial law, or regulatory requirements; or

(2) based on the receipt of information about the unauthorized downloading of an employer's proprietary information or financial data to a personal Web site, Internet Web site, Web–based account, or similar account by an employee, from investigating an employee's actions under subsection (d) of this section.

(F) (1) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SECTION HAS BEEN VIOLATED, THE COMMISSIONER ~~MAY~~ *SHALL*:

(I) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR

(II) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.

(2) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SUBSECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

3–801.

(a) (1) In this section, "employer" means a person engaged in a business, industry, profession, trade, or other enterprise in the State.

(2) "Employer" includes:

(i) a unit of State or local government that employs individuals who are not subject to the provisions of Title 9, Subtitle 5 of the State Personnel and Pensions Article; and

(ii) a person who acts directly or indirectly in the interest of another employer with an employee.

(b) This section applies to an employer who provides leave with pay to an employee following the birth of the employee's child.

(c) An employer who provides leave with pay to an employee following the birth of the employee's child shall provide the same leave with pay to an employee when a child is placed with the employee for adoption.

(D) (1) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SECTION HAS BEEN VIOLATED, THE COMMISSIONER ~~MAY~~ *SHALL*:

(I) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR

(II) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.

(2) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SUBSECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

3–802.

(a) (1) In this section the following words have the meanings indicated.

(2) "Child" means an adopted, biological, or foster child, a stepchild, or a legal ward who is:

(i) under the age of 18 years; or

(ii) at least 18 years old and incapable of self–care due to a mental or physical disability.

(3) (i) "Employer" means a person that is engaged in a business, industry, profession, trade, or other enterprise in the State.

(ii) "Employer" includes a person who acts directly or indirectly in the interest of another employer with an employee.

(4) "Immediate family" means a child, spouse, or parent.

(5) (i) "Leave with pay" means paid time away from work that is earned and available to an employee:

1. based on hours worked; or

2. as an annual grant of a fixed number of hours or days of leave for performance of service.

(ii) "Leave with pay" includes sick leave, vacation time, paid time off, and compensatory time.

(iii) "Leave with pay" does not include:

1. a benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974;

2. an insurance benefit, including benefits from an employer's self–insured plan;

3. workers' compensation;

4. unemployment compensation;

5. a disability benefit; or

6. a similar benefit.

(6) "Parent" means an adoptive, biological, or foster parent, a stepparent, a legal guardian, or a person standing in loco parentis.

(b) (1) This section applies to an employee who is primarily employed in the State.

(2) This section applies to an employer that:

(i) provides leave with pay under the terms of a collective bargaining agreement or an employment policy; and

(ii) employs 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

(c) The purpose of this section is to allow an employee of an employer to use leave with pay to care for an immediate family member who is ill under the same conditions and policy rules that would apply if the employee took leave for the employee's own illness.

(d) An employee of an employer may use leave with pay for the illness of the employee's immediate family.

(e) (1) An employee of an employer:

(i) may only use leave with pay under this section that has been earned; and

(ii) who earns more than one type of leave with pay may elect the type and amount of leave with pay to be used under this section.

(2) Except as provided in paragraph (3) of this subsection, an employee of an employer who uses leave under this section shall comply with the terms of a collective bargaining agreement or employment policy.

(3) If the terms of a collective bargaining agreement with an employer or an employment policy of an employer provide a leave with pay benefit that is equal

to or greater than the benefit provided under this section, the collective bargaining agreement or employment policy prevails.

(f) An employer may not discharge, demote, suspend, discipline, or otherwise discriminate against an employee or threaten to take any of these actions against an employee because the employee:

(1) has taken leave authorized under this section;

(2) has opposed a practice made unlawful by this section; or

(3) has made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under this section.

(g) This section does not:

(1) extend the maximum period of leave an employee has under the federal Family and Medical Leave Act of 1993; or

(2) limit the period of leave to which an employee is entitled under the federal Family and Medical Leave Act of 1993.

(H) (1) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SECTION HAS BEEN VIOLATED, THE COMMISSIONER ~~MAY~~ *SHALL*:

(I) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR

(II) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.

(2) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SUBSECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

3–914.

(a) An employer shall keep, for at least 3 years, in or about its place of business, records of the employer containing the following information:

(1) the name, address, occupation, and classification of each employee or independent contractor;

(2) the rate of pay of each employee or method of payment for the independent contractor;

(3) the amount that is paid each pay period to each employee or, if applicable, independent contractor;

(4) the hours that each employee or independent contractor works each day and each workweek;

(5) for all individuals who are not classified as employees, evidence that each individual is an exempt person or an independent contractor or its employee; and

(6) other information that the Commissioner requires, by regulation, as necessary to enforce this subtitle.

(b) An employer shall provide each individual classified as an independent contractor or exempt person with written notice of the classification of the individual at the time the individual is hired.

(c) The written notice shall:

(1) include an explanation of the implications of the individual's classification as an independent contractor or exempt person rather than as an employee; and

(2) be provided in English and Spanish.

(d) The Commissioner shall adopt regulations establishing the specific requirements for the contents and form of the notice.

(E) IF AN EMPLOYER FAILS TO PROVIDE NOTICE UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY OF NOT MORE THAN ~~$100~~ *$50* FOR EACH DAY THAT THE EMPLOYER FAILS TO PROVIDE NOTICE.

3–920.

(a) The Commissioner shall prepare an annual report for the Secretary **AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY** on the administration and enforcement of this subtitle, that shall include:

(1) the number and nature of complaints received;

(2) the number of investigations conducted;

(3) the number of citations issued;

(4) the number of informal resolutions of the citations;

(5) the number of **[**final administrative orders, with a description, that shall include:

(i) whether the alleged violation was found; and

(ii) whether the order affirmed or overturned a proposed decision of the Office of Administrative Hearings;**] CITATIONS APPEALED TO THE OFFICE OF ADMINISTRATIVE HEARINGS AND THE OUTCOMES OF THOSE HEARINGS;**

(6) **[**the number of orders of the Commissioner reviewed by the Secretary and whether they were affirmed or overturned; and

(7)**]** the number of requests for judicial review of **[**administrative**] FINAL** orders and whether the orders were affirmed or overturned**[**.**]; AND**

(7) THE NUMBER OF CIVIL PENALTIES ASSESSED, THE TOTAL DOLLAR AMOUNT OF THOSE PENALTIES, AND THE TOTAL DOLLAR AMOUNT COLLECTED.

(b) The Commissioner's report shall be a public record.

3–1008.

(A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER ~~MAY~~ *SHALL*:

(1) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR

(2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.

(B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

5–306.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS PART I OF THIS SUBTITLE SHALL TERMINATE ON JULY 1, 2024.

[5–607.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title shall terminate and be of no effect after July 1, 2014.**]**

11–402.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, **[**provisions of this subtitle creating the Apprenticeship and Training Council and related to the regulation of apprentices and trainees are of no effect after**] §§ 11–403 THROUGH 11–405 OF THIS SUBTITLE SHALL TERMINATE ON** July 1, **[**2014**] 2024**.

Article – Public Safety

12–904.

(a) There is a Board of Boiler Rules in the Division of Labor and Industry in the Department of Labor, Licensing, and Regulation.

(b) (1) The Board consists of the following 10 members:

(i) as an ex officio member, the Commissioner; and

(ii) nine members appointed by the Governor with the advice of the Secretary and with the advice and consent of the Senate.

(2) Of the nine appointed members of the Board:

(i) one shall be a representative of owners and users of power boilers;

(ii) one shall be a representative of owners of agricultural, model, or historical steam engine equipment;

(iii) one shall be a representative of owners and users of pressure vessels;

(iv) one shall be a representative of manufacturers or assemblers of boilers or pressure vessels;

(v) one shall be a representative of an insurer authorized to insure boilers or pressure vessels;

(vi) one shall be a mechanical engineer on the faculty of a recognized engineering college in the State;

(vii) one shall be a stationary engineer;

(viii) one shall be a professional engineer with boiler or pressure vessel experience; and

(ix) one shall be a consumer member.

(c) (1) The consumer member of the Board:

(i) shall be a member of the public;

(ii) may not be a licensee or otherwise be subject to regulation by the Board;

(iii) may not be required to meet the qualifications for the professional members of the Board; and

(iv) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(2) While a member of the Board, the consumer member may not:

(i) have a financial interest in or receive compensation from a person regulated by the Board; or

(ii) grade any examination given by or for the Board.

(d) (1) The term of an appointed member is 4 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) The Board shall elect a chairman from among its members.

(f) The Commissioner may not vote.

(g) (1) The Commissioner may not receive additional compensation as a member of the Board.

(2) An appointed member of the Board:

(i) may not receive a salary as a member of the Board; but

(ii) is entitled to:

1. compensation in accordance with the State budget; and

2. reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(H) THE BOARD SHALL MEET WITH AND CONSULT THE STATE BOARD OF STATIONARY ENGINEERS AS NECESSARY BUT ~~NOT LESS THAN TWO TIMES~~ AT LEAST ONE TIME EACH YEAR.

[(h)**] (I)** The exercise or performance of the powers, authority, duties, and functions of the Board under this subtitle is subject to the power and authority of the Secretary.

12–919.

[The provisions of this subtitle creating the Board and relating to the regulation of boilers or pressure vessels and any regulations adopted under this subtitle are of no effect and may not be enforced after**] SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, § 12–904 OF THIS SUBTITLE SHALL TERMINATE ON** July 1, **[**2014**] 2024**.

Article – State Finance and Procurement

[17–203.

(a) In this section, "Advisory Council" means the Advisory Council on Prevailing Wage Rates.

(b) There is an Advisory Council on Prevailing Wage Rates in the Division of Labor and Industry.

(c) The Advisory Council consists of the following 6 members:

(1) 2 individuals from management in the building and construction industry;

(2) 2 individuals from labor in the building and construction industry; and

(3) 2 individuals from the general public.

(d) (1) The Governor shall appoint each member with the advice of the Secretary of Labor, Licensing, and Regulation and with the advice and consent of the Senate.

(2) The 2 members from management shall be selected from a list submitted by management organizations in the building and construction industry.

(3) The 2 members from labor shall be selected from a list submitted by labor organizations in the building and construction industry.

(e) Before taking office, each appointee to the Advisory Council shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) From among the Advisory Council members, the Governor shall appoint a chairman.

(2) The chairman of the Advisory Council:

(i) shall serve for 1 year from the day of appointment; and

(ii) is not eligible for reappointment as chairman for the following year.

(g) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Advisory Council on October 1, 1988.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) If a vacancy occurs, the Governor shall appoint a new member with the advice of the Secretary of Labor, Licensing, and Regulation.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(h) The Governor may remove a member for incompetence or misconduct.

(i) (1) The Advisory Council shall advise and submit recommendations to the Commissioner on the Commissioner's functions under this subtitle.

(2) The Commissioner may ask other units of the State government or units of local governments to provide statistical data, reports, and other information to help the Advisory Council to carry out its duties.

(j) The Advisory Council shall meet at least twice a year and on other days the Commissioner requests, at the times and places that it determines.

(k) Each member of the Advisory Council is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(l) Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this section shall terminate and be of no effect after July 1, 2014.**]**

Article – State Government

8–403.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(2) Amusement Ride Safety, State Advisory Board (§ 3–303 of the Business Regulation Article: July 1, **[**2013**] 2023**);

(3) Apprenticeship and Training Council (§ 11–403 of the Labor and Employment Article: July 1, **[**2013**] 2023**);

(9) Boiler Rules, Board of (§ 12–904 of the Public Safety Article: July 1, **[**2013**] 2023**);

(33) Labor and Industry, Division of (Title 2 of the Labor and Employment Article: July 1, **[**2013**] 2023**) **AND RELATED PROGRAMS**;

(42) Occupational Safety and Health Advisory Board (§ 5–302 of the Labor and Employment Article: July 1, **[**2013**] 2023**);

[(55) Prevailing Wage Rates, Advisory Council on (§ 17–203 of the State Finance and Procurement Article: July 1, 2013);**]**

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(56) through (69), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 8–403(b)(55) through (68), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before October 31, 2013, the Division of Labor and Industry shall submit a report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the continued use and effectiveness of wage orders.

(b) The report submitted under subsection (a) of this section shall, for each of the immediately preceding 3 fiscal years, include:

(1) the number of wage orders issued by the Division;

(2) the number of wage orders forwarded to the Central Collection Unit for collection;

(3) the number of wage orders forwarded to the Central Collection Unit for which payment is collected;

(4) the number of wage orders forwarded to the Central Collection Unit for which payment has not been collected; and

(5) to the extent feasible, the reasons for any substantial increase or decrease in the backlog of wage orders that remain unpaid from a previous fiscal year.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 31, 2013, the Workplace Fraud Unit shall submit a report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the progress of the development of a long–term data management system.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) On or before December 31, 2014, the Commissioner of Labor and Industry shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the status of the Workplace Fraud Unit as required by Chapter 188, § 3 of the Acts of 2009.

(b) The report submitted under subsection (a) of this section shall:

(1) summarize the level of activity under the Unit's new implementation strategy and assess the effectiveness of the Unit's strategy and its outreach program;

(2) explain the difference between initial estimates of citations and penalties and those experienced in practice, including the relatively few citations issued for worker misclassification;

(3) include the development status of the Unit's long–term data management system and the system's ability to support the Unit; and

(4) at a minimum, evaluate:

(i) the Unit's annual data reports and the consistency between those reports and other agency audits of worker misclassification;

(ii) the Unit's staffing composition relative to its implementation strategy; and

(iii) the Unit's role in the larger context of the Task Force on Workplace Fraud established by Executive Order No. 01.01.2009.09.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 225

(Senate Bill 313)

AN ACT concerning

Workers' Compensation – Anne Arundel County Deputy Sheriff

FOR the purpose of altering a certain definition of "public safety employee" to include Anne Arundel County deputy sheriffs for purposes of establishing eligibility for enhanced workers' compensation benefits for a compensable permanent partial disability of less than a certain number of weeks; providing for the application of this Act; and generally relating to workers' compensation benefits for Anne Arundel County deputy sheriffs.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–628
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 9–629
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

9–628.

(a) In this section, "public safety employee" means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life support worker who is a covered employee under § 9–234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(3) a police officer employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority;

(v) the Maryland–National Capital Park and Planning Commission; or

(vi) the Washington Metropolitan Area Transit Authority;

(4) a Prince George's County deputy sheriff or correctional officer;

(5) a Montgomery County deputy sheriff or correctional officer;

(6) an Allegany County deputy sheriff; **[**or**]**

(7) a Howard County deputy sheriff, but only when the deputy sheriff is performing law enforcement duties expressly requested, defined, and authorized in accordance with a written memorandum of understanding executed between the Howard County Sheriff and other law enforcement agencies**; OR**

(8) AN ANNE ARUNDEL COUNTY DEPUTY SHERIFF.

(b) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $80.

(c) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $82.50.

(d) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $94.20.

(e) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $114.

(f) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks, the employer or its insurer

shall pay to the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed:

(1) for claims arising from events occurring on or after January 1, 2009, but before January 1, 2010, 14.3% of the State average weekly wage;

(2) for claims arising from events occurring on or after January 1, 2010, but before January 1, 2011, 15.4% of the State average weekly wage; and

(3) for claims arising from events occurring on or after January 1, 2011, 16.7% of the State average weekly wage.

(g) If a covered employee is awarded compensation for less than 75 weeks for a disability listed in § 9–627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

(h) If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

9–629.

If a covered employee is awarded compensation for a period equal to or greater than 75 weeks but less than 250 weeks, the employer or its insurer shall pay the covered employee weekly compensation that equals two–thirds of the average weekly wage of the covered employee but does not exceed one–third of the State average weekly wage.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claims arising from events occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 226

(House Bill 370)

AN ACT concerning

Workers' Compensation – Anne Arundel County Deputy Sheriff

FOR the purpose of altering a certain definition of "public safety employee" to include Anne Arundel County deputy sheriffs for purposes of establishing eligibility for enhanced workers' compensation benefits for a compensable permanent partial disability of less than a certain number of weeks; providing for the application of this Act; and generally relating to workers' compensation benefits for Anne Arundel County deputy sheriffs.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–628
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–629
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

9–628.

(a) In this section, "public safety employee" means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life support worker who is a covered employee under § 9–234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(3) a police officer employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority;

(v) the Maryland–National Capital Park and Planning Commission; or

(vi) the Washington Metropolitan Area Transit Authority;

(4) a Prince George's County deputy sheriff or correctional officer;

(5) a Montgomery County deputy sheriff or correctional officer;

(6) an Allegany County deputy sheriff; **[**or**]**

(7) a Howard County deputy sheriff, but only when the deputy sheriff is performing law enforcement duties expressly requested, defined, and authorized in accordance with a written memorandum of understanding executed between the Howard County Sheriff and other law enforcement agencies**; OR**

(8) AN ANNE ARUNDEL COUNTY DEPUTY SHERIFF.

(b) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $80.

(c) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from

events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $82.50.

(d) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $94.20.

(e) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $114.

(f) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay to the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed:

(1) for claims arising from events occurring on or after January 1, 2009, but before January 1, 2010, 14.3% of the State average weekly wage;

(2) for claims arising from events occurring on or after January 1, 2010, but before January 1, 2011, 15.4% of the State average weekly wage; and

(3) for claims arising from events occurring on or after January 1, 2011, 16.7% of the State average weekly wage.

(g) If a covered employee is awarded compensation for less than 75 weeks for a disability listed in § 9–627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

(h) If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

9–629.

If a covered employee is awarded compensation for a period equal to or greater than 75 weeks but less than 250 weeks, the employer or its insurer shall pay the covered employee weekly compensation that equals two–thirds of the average weekly

wage of the covered employee but does not exceed one–third of the State average weekly wage.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claims arising from events occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 227

(Senate Bill 315)

AN ACT concerning

Frederick County – Gaming Permits

FOR the purpose of repealing in Frederick County a certain limitation on the number of certain raffles that may be held on a single day; authorizing the Board of County Commissioners of Frederick County to determine the number of permits to conduct a raffle that certain organizations in Frederick County may receive in a calendar year; and generally relating to raffles in Frederick County.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 13–1304(a) and (b)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 13–1304(f)(2)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY adding to
Article – Criminal Law
Section 13–1304(f)(4)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

13–1304.

(a) Before an organization listed in subsection (b) of this section may conduct a gaming event, the organization shall obtain a permit from the county agency that the county commissioners designate.

(b) An organization may conduct a gaming event for its own benefit if the organization is:

(1) a bona fide:

(i) religious organization;

(ii) fraternal organization;

(iii) civic organization;

(iv) war veterans' organization;

(v) hospital;

(vi) amateur athletic organization;

(vii) patriotic organization;

(viii) educational organization; or

(ix) charitable organization;

(2) a Frederick County volunteer:

(i) fire company;

(ii) rescue company; or

(iii) ambulance company; or

(3) an auxiliary for a Frederick County volunteer:

(i) fire company;

(ii) rescue company; or

(iii) ambulance company.

(f) (2) During each calendar year, the holder of a gaming event, including a raffle for which the prize drawings are held on a single day, may not hold or receive the proceeds from**[**:

(i)**]** more than one gaming event in which the major prize has a value of more than $5,000**[**; and

(ii) more than five raffles for which the prize drawings are held on a single day and in which the major prize has a value of $5,000 or less**]**.

(4) THE COUNTY COMMISSIONERS MAY REGULATE THE NUMBER OF PERMITS TO CONDUCT A RAFFLE THAT AN ORGANIZATION MAY RECEIVE IN 1 CALENDAR YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 228

(House Bill 414)

AN ACT concerning

Frederick County – Gaming Permits

FOR the purpose of repealing in Frederick County a certain limitation on the number of certain raffles that may be held on a single day; authorizing the Board of County Commissioners of Frederick County to determine the number of permits to conduct a raffle that certain organizations in Frederick County may receive in a calendar year; and generally relating to raffles in Frederick County.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 13–1304(a) and (b)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law

Section 13–1304(f)(2)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY adding to
Article – Criminal Law
Section 13–1304(f)(4)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

13–1304.

(a) Before an organization listed in subsection (b) of this section may conduct a gaming event, the organization shall obtain a permit from the county agency that the county commissioners designate.

(b) An organization may conduct a gaming event for its own benefit if the organization is:

(1) a bona fide:

(i) religious organization;

(ii) fraternal organization;

(iii) civic organization;

(iv) war veterans' organization;

(v) hospital;

(vi) amateur athletic organization;

(vii) patriotic organization;

(viii) educational organization; or

(ix) charitable organization;

(2) a Frederick County volunteer:

(i) fire company;

(ii) rescue company; or

(iii) ambulance company; or

(3) an auxiliary for a Frederick County volunteer:

(i) fire company;

(ii) rescue company; or

(iii) ambulance company.

(f) (2) During each calendar year, the holder of a gaming event, including a raffle for which the prize drawings are held on a single day, may not hold or receive the proceeds from**[**:

(i)**]** more than one gaming event in which the major prize has a value of more than $5,000**[**; and

(ii) more than five raffles for which the prize drawings are held on a single day and in which the major prize has a value of $5,000 or less**]**.

(4) THE COUNTY COMMISSIONERS MAY REGULATE THE NUMBER OF PERMITS TO CONDUCT A RAFFLE THAT AN ORGANIZATION MAY RECEIVE IN 1 CALENDAR YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 229

(Senate Bill 321)

AN ACT concerning

Frederick County – Alcoholic Beverages – License Fees

FOR the purpose of altering the distribution of alcoholic beverages license fees in Frederick County; requiring that the ~~Board of License Commissioners keep a certain percentage of license fees that are collected and that a certain percentage of license fees be distributed to the County Treasurer~~ County

Treasurer receive all of the license fees that the Board of License Commissioners collects; requiring that all of the salaries and expenses of the Board of License Commissioners be paid from certain license fees; ~~making certain stylistic changes;~~ and generally relating to alcoholic beverages license fees in Frederick County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10–204(l)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

10–204.

(l) **(1) THIS SUBSECTION APPLIES ONLY IN FREDERICK COUNTY.**

(2) [In Frederick County, where the licensed place of business is located in an incorporated town, 50 percent of the license fee shall be paid to the incorporated town, and the remaining 50 percent, and all license fees for places of business located outside an incorporated town, shall be turned over by the Board of County Commissioners to the County Treasurer.**]** ~~**THE BOARD OF LICENSE COMMISSIONERS SHALL:**~~

~~**(I) KEEP 50% OF ALL ALCOHOLIC BEVERAGES LICENSE FEES COLLECTED; AND**~~

~~**(II) DISTRIBUTE THE REMAINING 50% OF THE LICENSE FEES TO THE COUNTY TREASURER.**~~

~~**(3)** The **[**salary**]** SALARIES and expenses of the **[**license commissioner shall be paid by the County Commissioners from the license fees received under this article**]** BOARD OF LICENSE COMMISSIONERS SHALL BE PAID FROM THE LICENSE FEES THAT THE BOARD OF LICENSE COMMISSIONERS KEEPS~~ **THE COUNTY TREASURER SHALL:**

(I) RECEIVE ALL OF THE LICENSE FEES THAT THE BOARD OF LICENSE COMMISSIONERS COLLECTS; AND

(II) FROM THOSE FEES, PAY ALL OF THE SALARIES AND EXPENSES OF THE BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 230

(House Bill 410)

AN ACT concerning

Frederick County – Alcoholic Beverages – License Fees

FOR the purpose of altering the distribution of alcoholic beverages license fees in Frederick County; requiring that the ~~Board of License Commissioners keep a certain percentage of license fees that are collected and that a certain percentage of license fees be distributed to the County Treasurer~~ County Treasurer receive all of the license fees that the Board of License Commissioners collects; requiring that all of the salaries and expenses of the Board of License Commissioners be paid from certain license fees; ~~making certain stylistic changes;~~ and generally relating to alcoholic beverages license fees in Frederick County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10–204(l)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

10–204.

(l) **(1) THIS SUBSECTION APPLIES ONLY IN FREDERICK COUNTY.**

(2) [In Frederick County, where the licensed place of business is located in an incorporated town, 50 percent of the license fee shall be paid to the incorporated town, and the remaining 50 percent, and all license fees for places of business located outside an incorporated town, shall be turned over by the Board of County Commissioners to the County Treasurer.**]** ~~**THE BOARD OF LICENSE COMMISSIONERS SHALL:**~~

~~(I) KEEP 50% OF ALL ALCOHOLIC BEVERAGES LICENSE FEES COLLECTED; AND~~

~~(II) DISTRIBUTE THE REMAINING 50% OF THE LICENSE FEES TO THE COUNTY TREASURER.~~

~~(3) The [salary] SALARIES and expenses of the [license commissioner shall be paid by the County Commissioners from the license fees received under this article] BOARD OF LICENSE COMMISSIONERS SHALL BE PAID FROM THE LICENSE FEES THAT THE BOARD OF LICENSE COMMISSIONERS KEEPS~~ **THE COUNTY TREASURER SHALL:**

(I) RECEIVE ALL OF THE LICENSE FEES THAT THE BOARD OF LICENSE COMMISSIONERS COLLECTS; AND

(II) FROM THOSE FEES, PAY ALL OF THE SALARIES AND EXPENSES OF THE BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 231

(Senate Bill 335)

AN ACT concerning

Health Occupations – Funeral Establishments – Preparation and Holding Rooms

FOR the purpose of establishing that a funeral establishment that uses a central preparation room at another funeral establishment is not required to have its own preparation room or holding room; and generally relating to funeral establishments.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 7–310
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

7–310.

(a) (1) A funeral establishment shall be licensed by the Board before the establishment may be used for the preparation of the remains, viewing, and conducting of services.

(2) The licensee may be restricted to operations as determined by the Board.

(b) (1) To apply for a funeral establishment license, an applicant shall:

(i) Submit an application to the Board on the form that the Board requires; and

(ii) Pay to the Board:

1. An application fee set by the Board; and

2. The fee established under § 7–4A–05(a) of this title.

(2) An application for a funeral establishment license shall be signed by a licensed individual who is not an apprentice but is the owner or co–owner of the establishment to be licensed.

(c) The Board shall issue a funeral establishment license to a funeral establishment that:

(1) Has complied with all applicable State and local laws;

(2) Will be owned and operated in accordance with this title by at least one licensed mortician or one licensed funeral director, or a holder of a surviving spouse or corporation license; and

(3) Will be held responsible for any and all activities performed on the premises.

(d) Signs and advertisements of a funeral establishment shall display the name that appears on the establishment license.

(E) A FUNERAL ESTABLISHMENT THAT USES A CENTRAL PREPARATION ROOM AT ANOTHER FUNERAL ESTABLISHMENT IS NOT REQUIRED TO HAVE ITS OWN PREPARATION ROOM OR HOLDING ROOM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 232

(Senate Bill 338)

AN ACT concerning

State Board of Nursing – Medication Technician Graduates and Certified Medication Technicians – Sunset Extension

FOR the purpose of extending the termination date for certain provisions of law relating to medication technician graduates and certified medication technicians; making this Act an emergency measure; and generally relating to the State Board of Nursing and medication technician graduates and certified medication technicians.

BY repealing and reenacting, with amendments,
Chapter 123 of the Acts of the General Assembly of 2011
Section 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Chapter 123 of the Acts of 2011

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect for a period of **[**2**] 3** years from the date it is enacted and, at the end of the **[**2–year**] 3–YEAR** period, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2013.

Chapter 233

(House Bill 425)

AN ACT concerning

State Board of Nursing – Medication Technician Graduates and Certified Medication Technicians – Sunset Extension

FOR the purpose of extending the termination date for certain provisions of law relating to medication technician graduates and certified medication technicians; making this Act an emergency measure; and generally relating to the State Board of Nursing and medication technician graduates and certified medication technicians.

BY repealing and reenacting, with amendments,
Chapter 123 of the Acts of the General Assembly of 2011
Section 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Chapter 123 of the Acts of 2011

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect for a period of **[**2**]** **3** years from the date it is enacted and, at the end of the **[**2–year**]** **3–YEAR** period, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2013.

Chapter 234

(Senate Bill 344)

AN ACT concerning

Potomac River Fisheries Commission – Inspection Tax and Penalty

FOR the purpose of establishing a certain maximum oyster inspection tax that may be imposed by the Potomac River Fisheries Commission; requiring the Potomac River Fisheries Commission to use the proceeds of a certain oyster inspection tax for a certain purpose; increasing a certain maximum penalty for the violation of certain regulations; making this Act subject to a certain contingency; providing for the effective dates of this Act; and generally relating to the Potomac River Fisheries Commission.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–306 Article III Section 9 and Article V Section 2
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

4–306.

Article III.

Commission Powers and Duties

Section 9. The commission may impose an inspection tax, in an amount as fixed from time to time by the commission, upon all oysters caught within the limits of the Potomac River, which inspection tax may not exceed **[**the higher severance tax per bushel on oysters that is imposed by the Commonwealth of Virginia or the State of Maryland in the waters of their respective jurisdictions**] $2.00 PER BUSHEL**. The tax shall be paid by the buyer at the place in Maryland or Virginia where the oysters are unloaded from vessels and are to be shipped no further in bulk in vessel, to an agent of the commission, or to such officer or employee of the Virginia Marine Resources Commission or of the Maryland Department of Natural Resources, as may be designated by the commission, and by him paid over to the commission. **THE COMMISSION SHALL USE THE PROCEEDS OF THE OYSTER INSPECTION TAX SOLELY FOR ~~OYSTER REPLENISHMENT–RELATED PROGRAMS~~ PLANTING SEED OR SHELL OYSTER ON WORKING BOTTOM.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Natural Resources

4–306.

Article V.

Enforcement of Laws and Regulations: Penalties

Section 2. The violation of any regulation of the commission shall be a misdemeanor. Unless a lesser punishment is provided by the commission, such violation shall be punishable by a fine not to exceed **[**~~one thousand dollars ($1,000.00)~~**]** ~~**$3,000**~~ ***THREE THOUSAND DOLLARS ($3,000)*** or confinement in a penal institution for not more than one (1) year, or both, in the discretion of the court, and any vessel, boat, or equipment used in the taking of finfish, crabs, oysters, clams, or other shellfish from the Potomac River in violation of any regulation of the commission or of applicable laws may be confiscated by the court, upon the abandonment thereof or the conviction of the owner or operator thereof.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not take effect until a similar act is enacted by the Commonwealth of Virginia; that the Commonwealth of Virginia is requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar act; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia of the enactment of this Act; and that on the concurrence in this Act by the Commonwealth of Virginia, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Department of Legislative Services.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this Act, Section 1 of this Act shall take effect July 1, 2013.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Sections 3 and 4 of this Act, this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 235

(House Bill 357)

AN ACT concerning

Potomac River Fisheries Commission – Inspection Tax and Penalty

FOR the purpose of establishing a certain maximum oyster inspection tax that may be imposed by the Potomac River Fisheries Commission; requiring the Potomac River Fisheries Commission to use the proceeds of a certain oyster inspection tax for a certain purpose; increasing a certain maximum penalty for the violation of certain regulations; making this Act subject to a certain contingency; providing for the effective dates of this Act; and generally relating to the Potomac River Fisheries Commission.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–306 Article III Section 9 and Article V Section 2
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

4–306.

Article III.

Commission Powers and Duties

Section 9. The commission may impose an inspection tax, in an amount as fixed from time to time by the commission, upon all oysters caught within the limits of the Potomac River, which inspection tax may not exceed **[**the higher severance tax per bushel on oysters that is imposed by the Commonwealth of Virginia or the State of Maryland in the waters of their respective jurisdictions**] $2.00 PER BUSHEL**. The tax shall be paid by the buyer at the place in Maryland or Virginia where the oysters are unloaded from vessels and are to be shipped no further in bulk in vessel, to an agent of the commission, or to such officer or employee of the Virginia Marine Resources Commission or of the Maryland Department of Natural Resources, as may be designated by the commission, and by him paid over to the commission. **THE COMMISSION SHALL USE THE PROCEEDS OF THE OYSTER INSPECTION TAX SOLELY FOR ~~OYSTER REPLENISHMENT–RELATED PROGRAMS~~ PLANTING SEED OR SHELL OYSTER ON WORKING BOTTOM.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Natural Resources

4–306.

Article V.

Enforcement of Laws and Regulations: Penalties

Section 2. The violation of any regulation of the commission shall be a misdemeanor. Unless a lesser punishment is provided by the commission, such violation shall be punishable by a fine not to exceed ~~[one thousand dollars ($1,000.00)]~~ ~~$3,000~~ **THREE THOUSAND DOLLARS ($3,000)** or confinement in a penal institution for not more than one (1) year, or both, in the discretion of the court, and any vessel, boat, or equipment used in the taking of finfish, crabs, oysters, clams, or other shellfish from the Potomac River in violation of any regulation of the commission or of applicable laws may be confiscated by the court, upon the abandonment thereof or the conviction of the owner or operator thereof.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not take effect until a similar act is enacted by the Commonwealth of Virginia; that the Commonwealth of Virginia is requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar act; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia of the enactment of this Act; and that on the concurrence in this Act by the Commonwealth of Virginia, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Department of Legislative Services.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this Act, Section 1 of this Act shall take effect July 1, 2013.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Sections 3 and 4 of this Act, this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 236

(Senate Bill 346)

AN ACT concerning

Innovations in Aging Services Program – Commission on Aging – Responsibilities

FOR the purpose of repealing the Innovations in Aging Services Advisory Council and transferring certain Council responsibilities to the Commission on Aging; providing that the Commission shall advise the Secretary of Aging on the

development of a certain annual Innovation in Aging Services Program plan; providing that the Commission shall advise the Secretary on the awarding of certain grants in accordance with certain Program priorities; and generally relating to the Commission on Aging and the Innovations in Aging Services Program.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–601, 10–603, and 10–605
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)

BY repealing
Article – Human Services
Section 10–604
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Human Services

10–601.

(a) In this subtitle the following words have the meanings indicated.

[(b) "Council" means the Innovations in Aging Services Advisory Council.**]**

(B) "COMMISSION" MEANS THE COMMISSION ON AGING ESTABLISHED UNDER § 10–208 OF THIS TITLE.

(c) "Program" means the Innovations in Aging Services Program.

10–603.

(a) (1) With the advice of the **[**Council**] COMMISSION**, the Secretary shall:

(i) develop annually a Program plan; and

(ii) submit the plan to the Governor and General Assembly for approval as part of the annual State budget.

(2) The plan shall set forth priorities for:

(i) funding grants for innovative services to seniors; and

(ii) training personnel who provide services to seniors in the State.

(3) The plan shall include provisions for:

(i) funding grants that are sought by Communities for a Lifetime to the extent practicable; and

(ii) evaluating any program funded under the plan.

(b) The Secretary may accept money from any public or private source to fund grants awarded under this subtitle.

[10–604.

(a) There is an Innovations in Aging Services Advisory Council in the Department.

(b) The Council consists of the following 15 members:

(1) the Secretary of Aging;

(2) the chair of the Maryland Commission on Aging or the chair's designee;

(3) the Secretary of Health and Mental Hygiene or the Secretary's designee;

(4) one member of the Senate of Maryland, appointed by the President of the Senate;

(5) one member of the Maryland House of Delegates, appointed by the Speaker; and

(6) the following 10 members appointed by the Secretary of Aging:

(i) five representatives of organizations providing services to seniors;

(ii) two representatives of senior consumers of services to seniors;

(iii) a director of an area agency;

(iv) a representative of a Community for a Lifetime; and

(v) a representative of the University of Maryland Center on Aging.

(c) The Secretary is the chair of the Council.

(d) (1) The term of a member of the Council is 4 years.

(2) The terms of the members appointed by the Secretary are staggered as required by the terms provided for members of the Council on October 1, 2007.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.**]**

[10–605.**] 10–604.**

(a) The Secretary shall solicit grant proposals to implement the Program priorities approved by the Governor and the General Assembly under § 10–603(a) of this subtitle.

(b) With the advice of the **[**Council**] COMMISSION**, the Secretary shall award grants funded in accordance with the approved Program priorities.

(c) The Secretary shall provide for the evaluation, by recognized authorities in the field of services to seniors, of the programs funded by the grants.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 237

(Senate Bill 350)

AN ACT concerning

Electrical Inspectors and Plumbing Inspectors – Master License Required

FOR the purpose of requiring a county or local government to employ as electrical inspectors only individuals who hold, or have previously held within a certain

period of time under certain circumstances, a State license or local license, as applicable, to provide electrical services as a master electrician or who are certified by certain entities; requiring a county or local government to employ as plumbing inspectors only individuals who hold a master plumber license issued by certain entities; providing certain exceptions to certain requirements of this Act; providing for the scope of certain provisions of this Act; providing for the application of this Act; providing for a delayed effective date; and generally relating to licensing requirements for electrical inspectors and plumbing inspectors.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 6–101(a), (g), (h), and (k) and 12–101(a) and (l)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6–313, 12–103, and 12–503
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Occupations and Professions

6–101.

(a) In this title the following words have the meanings indicated.

(g) "Local license" means, unless the context requires otherwise, a license that is issued by a local board to provide electrical services as a master electrician.

(h) "Master electrician" means an individual who has the experience, knowledge, and skill to provide electrical services in all aspects of the electrical trade, in a manner that complies with applicable plans, specifications, codes, or law.

(k) "State license" means a license that is issued by the State Board to a master electrician.

6–313.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR LOCAL GOVERNMENT MAY EMPLOY AN INDIVIDUAL AS AN ELECTRICAL INSPECTOR ONLY IF THE INDIVIDUAL:

(I) HOLDS A STATE LICENSE OR LOCAL LICENSE, AS APPLICABLE;

(II) PREVIOUSLY HELD, WITHIN THE LAST 5 YEARS, A STATE LICENSE OR LOCAL LICENSE, AS APPLICABLE, THAT WAS NOT SUSPENDED OR REVOKED; OR

(III) IS CERTIFIED BY:

1. THE INTERNATIONAL CODE COUNCIL AS A COMBINATION INSPECTOR OR AS AN ELECTRICAL INSPECTOR FOR RESIDENTIAL OR COMMERCIAL BUILDINGS; ~~BY~~

2. THE NORTH AMERICAN BOARD OF CERTIFIED ENERGY PRACTITIONERS; OR

3. A CERTIFYING ENTITY THAT IS COMPARABLE TO THE ENTITY LISTED IN ITEM 1 OR 2 OF THIS ITEM.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A COUNTY OR LOCAL GOVERNMENT THAT USES CODE INSPECTORS OR COMBINATION BUILDING CODE INSPECTORS TO CONDUCT ~~CONCURRENT~~ TRADE–SPECIFIC INSPECTIONS ON RESIDENTIAL OR COMMERCIAL BUILDINGS TO DETERMINE COMPLIANCE WITH ADOPTED ELECTRICAL CODES ~~AND~~ OR RELATED BUILDING CODES.

[(a)**] (B)** An individual may not have any financial interest in any electrical business while employed by the State, a county, or a local government as an electrical inspector.

[(b)**] (C)** (1) On appointment or employment as an electrical inspector, the individual:

(i) shall place the State license of the individual on inactive status; and

(ii) except for the renewal fee, shall meet the inactive status requirements of § 6–311 of this subtitle.

(2) The State Board may issue an electrical inspector identification card to an electrical inspector who has placed the State license on inactive status.

(3) The State Board may not charge a fee to issue the identification card.

[(c)**] (D)** The State Board may change the status of an electrical inspector to individual inactive status, if the electrical inspector:

(1) meets the inactive status requirements of § 6–311 of this subtitle; and

(2) pays an inactive status fee of $50.

[(d)**] (E)** On termination of the appointment or employment of an individual as an electrical inspector, the State Board shall reactivate the State license of the individual who is on inactive status, without examination, if the individual meets the reactivation requirements for a State license under § 6–311(f) of this subtitle, including payment of the reactivation fee.

12–101.

(a) In this title the following words have the meanings indicated.

(l) (1) "Master plumber" means, unless the context requires otherwise, an individual who is licensed by the Board to provide plumbing services and natural gas services.

(2) "Master plumber" includes a master plumber gas fitter.

12–103.

(a) Except as expressly provided in §§ 12–305 **[**and**],** 12–307**, AND 12–503(B)** of this title, this title does not apply to Baltimore County.

(b) Except as expressly provided in §§ 12–305 **[**and**],** 12–307**, AND 12–503(B)** of this title, this title does not apply to areas of Montgomery and Prince George's counties that are under the jurisdiction of the Washington Suburban Sanitary Commission.

12–503.

(a) Each individual whom the State, a county, or a local government appoints or employs as a plumbing inspector shall:

(1) each year attend a continuing education course that the Board or, with the approval of the Board, a county or local government conducts; and

(2) meet minimum standards that:

(i) adequately ensure that the plumbing inspector is qualified to inspect in accordance with the State Plumbing Code;

(ii) are established:

1. by the county or local government in consultation with the Board; or

2. if there is no standard established by the county or local government, by the Board; and

(iii) are administered:

1. for a county or local government inspector, by the county or local government that appoints or employs the inspector; and

2. for a State inspector, by the State.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR LOCAL GOVERNMENT MAY EMPLOY AN INDIVIDUAL AS A PLUMBING INSPECTOR ONLY IF THE INDIVIDUAL HOLDS A MASTER PLUMBER LICENSE ISSUED BY THE BOARD, THE BALTIMORE COUNTY PLUMBING BOARD, OR THE WASHINGTON SUBURBAN SANITARY COMMISSION.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A COUNTY OR LOCAL GOVERNMENT THAT USES COMBINATION BUILDING CODE INSPECTORS TO CONDUCT CONCURRENT TRADE–SPECIFIC INSPECTIONS ON RESIDENTIAL OR COMMERCIAL BUILDINGS TO DETERMINE COMPLIANCE WITH ADOPTED PLUMBING CODES AND BUILDING CODES IF THE COMBINATION BUILDING CODE INSPECTOR, AS PART OF THE INSPECTOR'S TRAINING, HAS PASSED:

(I) A MASTER PLUMBER EXAMINATION GIVEN ~~IN THE STATE AS PART OF THE INSPECTOR'S TRAINING~~ BY THE BOARD, THE BALTIMORE COUNTY PLUMBING BOARD, OR THE WASHINGTON SUBURBAN SANITARY COMMISSION; OR

(II) THE PLUMBING INSPECTOR'S TEST ADMINISTERED BY THE BOARD.

[(b)**] (C)** An individual may not have any financial interest in any plumbing business while employed by the State, a county, or any local government as a plumbing inspector.

[(c)**] (D)** (1) On appointment or employment, the individual shall place the master plumber license, journey plumber license, or limited license on inactive status.

(2) The Board may issue a plumbing inspector identification card to a plumbing inspector who has placed the appropriate license on inactive status.

(3) On termination of the appointment or employment of an individual as a plumbing inspector, the Board shall reactivate the master plumber license, journey plumber license, or limited license of an individual who is on inactive status, without examination, if the individual:

(i) makes a written request to the Board; and

(ii) pays to the Board a reactivation fee of:

1. $20, for a journey plumber or holder of a limited journey plumber license; or

2. $50, for a master plumber or holder of a limited master plumber license.

[(d)**] (E)** The Board may impose a reasonable fee to cover the costs of conducting the continuing education courses under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any electrical inspector or plumbing inspector employed by a county or local government before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

Approved by the Governor, May 2, 2013.

Chapter 238

(Senate Bill 351)

AN ACT concerning

Somerset County – Alcoholic Beverages – Beer and Wine Tasting License

FOR the purpose of establishing in Somerset County a beer and wine tasting (BWT) alcoholic beverages license for a holder of a beer, wine and liquor license or a beer and wine license; specifying that a BWT license authorizes a holder to serve certain alcoholic beverages for tasting purposes only and for no consideration; requiring the County Board of License Commissioners to regulate

the quantity and number of bottles of certain alcoholic beverages to be served; specifying license and issuance fees; repealing certain provisions relating to a wine tasting license; prohibiting a holder from exercising the privileges of the BWT license during any festival event; authorizing the Board to adopt certain regulations; and generally relating to alcoholic beverages in Somerset County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–410.2
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

8–410.2.

(a) This section applies only in Somerset County.

(b) (1) The Board of License Commissioners may issue a **BEER AND** wine tasting **[**(WT)**]** **(BWT)** **ALCOHOLIC BEVERAGES** license **[**for wine tasting and sampling**]**.

(2) **[**A WT license may be issued only to a holder of a Class A beer and wine (off–sale) license**]** **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BWT LICENSE TO A HOLDER OF A BEER, WINE AND LIQUOR LICENSE OR A BEER AND WINE LICENSE**.

(3) A BWT LICENSE AUTHORIZES THE CONSUMPTION OF BEER OR WINE THAT MAY BE SOLD UNDER THE BEER, WINE AND LIQUOR LICENSE OR THE BEER AND WINE LICENSE FOR TASTING PURPOSES ONLY AND FOR WHICH NO CONSIDERATION MAY BE CHARGED.

(4) THE BOARD OF LICENSE COMMISSIONERS SHALL REGULATE:

(I) THE QUANTITY OF BEER OR WINE TO BE SERVED TO EACH PERSON; AND

(II) THE NUMBER OF BOTTLES OF BEER OR WINE FROM WHICH THIS QUANTITY IS BEING SERVED.

(c) **(1)** **[**The**]** **IN ADDITION TO THE COST OF THE BEER, WINE AND LIQUOR LICENSE OR THE BEER AND WINE LICENSE, THE** annual **[**WT**]** **BWT** license fee is $150.

(2) IN ADDITION TO THE ANNUAL BWT LICENSE FEE, THE ISSUING FEE IS $100.

[(d) (1) An application for a WT license shall be made on a form that the Board of License Commissioners provides.

(2) A renewal of the WT license may be made at the time the Class A beer and wine (off–sale) license is renewed.

(3) The Board of License Commissioners may grant a WT license without a hearing.

(4) If application for a WT license is denied, the applicant may request a public hearing before the Board of License Commissioners.

(e) (1) A WT license holder may not serve to any person for sampling or tasting purposes more than 1 ounce from each brand.

(2) A maximum of six bottles may be opened at any one time at a wine sampling or tasting event.

(3) The total number of days during which wine sampling or tasting events are held may not exceed 15 in any period for which a WT license is in effect.

(4) A WT license holder shall notify the Board of License Commissioners in writing at least 5 days before a wine sampling or tasting event.

(5) Once opened, each bottle used for a wine sampling or tasting event shall be marked that it is to be used for that purpose only.

(6) The contents of each bottle may not be mixed with any other bottle, and all bottles shall be destroyed once they are empty.

(f) (1) A WT license is for on–premises consumption only.

(2) Wine sampling or tasting may not be conducted from a drive–through window.**]**

(D) THE PRIVILEGES GRANTED BY THIS BWT LICENSE MAY NOT BE EXERCISED DURING A FESTIVAL EVENT.

(E) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 239

(Senate Bill 355)

AN ACT concerning

~~Department of Health and Mental Hygiene – Health Care Facilities~~ Office of Health Care Quality – Abuser Registry Workgroup

FOR the purpose of requiring the ~~Secretary of Health and Mental Hygiene to establish a registry that includes certain information on certain employees of health care facilities who provide services to certain individuals and who were terminated for certain reasons; requiring the placement of a certain employee on the registry under certain circumstances; authorizing certain health care facilities to submit the names of former employees to the Secretary for inclusion in the registry; authorizing certain health care facilities to have access to the registry; prohibiting a health care facility from allowing an employee to access the registry except under certain circumstances; authorizing a person responsible for a certain individual to access the registry; requiring a health care facility to adopt a certain procedure, provide certain employee training, and implement a certain quality assurance program; prohibiting a health care facility from hiring certain individuals; defining certain terms; and generally relating to a registry of terminated employees of health care facilities~~ Office of Health Care Quality to reconvene the Abuser Registry Workgroup; requiring the Abuser Registry Workgroup to undertake a certain review, monitor the implementation of certain recommendations, and recommend certain changes; requiring the Office of Health Care Quality to submit a certain report to the Governor and certain legislative committees on or before a certain date; providing for the termination of this Act; and generally relating to an Abuser Registry Workgroup and the Office of Health Care Quality.

~~BY repealing and reenacting, without amendments,~~
~~Article – Health – General~~
~~Section 19–114(d)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

~~BY adding to~~
~~Article – Health – General~~
~~Section 19–347.1 and 19–351(e) and (f)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 19–351(a)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~the Laws of Maryland read as follows~~:

~~**Article – Health – General**~~

~~19–114.~~

~~(d) (1) "Health care facility" means:~~

~~(i) A hospital, as defined in § 19–301 of this title;~~

~~(ii) A limited service hospital, as defined in § 19–301 of this title;~~

~~(iii) A related institution, as defined in § 19–301 of this title;~~

~~(iv) An ambulatory surgical facility;~~

~~(v) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;~~

~~(vi) A home health agency, as defined in § 19–401 of this title;~~

~~(vii) A hospice, as defined in § 19–901 of this title;~~

~~(viii) A freestanding medical facility, as defined in § 19–3A–01 of this title; and~~

~~(ix) Any other health institution, service, or program for which this Part II of this subtitle requires a certificate of need.~~

~~(2) "Health care facility" does not include:~~

~~(i) A hospital or related institution that is operated, or is listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts;~~

~~(ii) For the purpose of providing an exemption from a certificate of need under § 19–120 of this subtitle, a facility to provide comprehensive care constructed by a provider of continuing care, as defined in § 10–401 of the Human Services Article, if:~~

~~1. Except as provided under § 19–123 of this subtitle, the facility is for the exclusive use of the provider's subscribers who have executed continuing care agreements and paid entrance fees that are at least equal to the lowest entrance fee charged for an independent living unit or an assisted living unit before entering the continuing care community, regardless of the level of care needed by the subscribers at the time of admission;~~

~~2. The facility is located on the campus of the continuing care community; and~~

~~3. The number of comprehensive care nursing beds in the community does not exceed:~~

~~A. 24 percent of the number of independent living units in a community having less than 300 independent living units; or~~

~~B. 20 percent of the number of independent living units in a community having 300 or more independent living units;~~

~~(iii) Except for a facility to provide kidney transplant services or programs, a kidney disease treatment facility, as defined by rule or regulation of the United States Department of Health and Human Services;~~

~~(iv) Except for kidney transplant services or programs, the kidney disease treatment stations and services provided by or on behalf of a hospital or related institution; or~~

~~(v) The office of one or more individuals licensed to practice dentistry under Title 4 of the Health Occupations Article, for the purposes of practicing dentistry.~~

~~**19–347.1.**~~

~~**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~(2) "APPROPRIATE AUTHORITY" INCLUDES CHILD PROTECTIVE SERVICES, THE OFFICE OF HEALTH CARE QUALITY, THE DEPARTMENT, AND A LAW ENFORCEMENT AGENCY.~~

~~(3) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN § 19–114 OF THIS TITLE.~~

~~(B) THE SECRETARY SHALL ESTABLISH A REGISTRY THAT INCLUDES THE NAME AND SOCIAL SECURITY NUMBER OF ANY EMPLOYEE WHO HAS BEEN TERMINATED FOR ABUSING OR NEGLECTING ANY OF THE FOLLOWING INDIVIDUALS IN A HEALTH CARE FACILITY:~~

~~(1) A SENIOR CITIZEN;~~

~~(2) A DISABLED INDIVIDUAL;~~

~~(3) A DEVELOPMENTALLY DISABLED INDIVIDUAL;~~

~~(4) AN INDIVIDUAL RECEIVING CARE BY AN IN–HOME AIDE; OR~~

~~(5) AN INDIVIDUAL INCAPABLE OF SELF–DEFENSE.~~

~~(C) THE EMPLOYEE SHALL BE PLACED IN THE REGISTRY IF:~~

~~(1) THE EMPLOYEE GRIEVANCE PROCEDURE ADOPTED BY THE HEALTH CARE FACILITY IN ACCORDANCE WITH § 19–351(E) OF THIS SUBTITLE HAS BEEN FOLLOWED;~~

~~(2) AN INVESTIGATION HAS BEEN COMPLETED BY BOTH THE HEALTH CARE FACILITY AND AN APPROPRIATE AUTHORITY;~~

~~(3) THE ABUSE HAS BEEN DEEMED TO HAVE OCCURRED;~~

~~(4) THE EMPLOYEE HAS BEEN TERMINATED; AND~~

~~(5) NO CHARGES HAVE BEEN FILED.~~

~~(D) A HEALTH CARE FACILITY MAY SUBMIT THE NAME OF A FORMER EMPLOYEE TO THE SECRETARY FOR INCLUSION IN THE REGISTRY IF THE HEALTH CARE FACILITY IS IN COMPLIANCE WITH § 19–351(E) OF THIS SUBTITLE.~~

~~(E) (1) A HEALTH CARE FACILITY MAY ACCESS THE REGISTRY IF:~~

~~(I) THE LICENSING AUTHORITY HAS DETERMINED THAT THE HEALTH CARE FACILITY SHOULD HAVE ACCESS TO THE REGISTRY; AND~~

~~(II) THE HEALTH CARE FACILITY IS DETERMINING WHETHER AN INDIVIDUAL SEEKING EMPLOYMENT IS LISTED IN THE REGISTRY.~~

~~(2) THE HEALTH CARE FACILITY MAY NOT ALLOW AN EMPLOYEE TO ACCESS THE REGISTRY UNLESS THE EMPLOYEE HAS BEEN GRANTED ACCESS TO CONFIDENTIAL RECORDS.~~

~~(F) A PERSON RESPONSIBLE FOR AN INDIVIDUAL WHO IS RECEIVING CARE BY AN IN–HOME AIDE MAY ACCESS THE REGISTRY.~~

~~19–351.~~

~~(a) Except as provided in subsections (b) [and], (d), AND (F) of this section, this subtitle does not affect the right of a hospital or related institution to employ ANY INDIVIDUAL or appoint staff.~~

~~(E) EACH HEALTH CARE FACILITY SHALL:~~

~~(1) ADOPT AN EMPLOYEE GRIEVANCE PROCEDURE;~~

~~(2) PROVIDE EMPLOYEE TRAINING ON THE PROPER HANDLING OF CONFIDENTIAL INFORMATION; AND~~

~~(3) IMPLEMENT A QUALITY ASSURANCE PROGRAM THAT IS AIMED AT PREVENTING A FORMER EMPLOYEE FROM BEING RECOMMENDED FOR INCLUSION IN THE REGISTRY ESTABLISHED UNDER § 19–347.1 OF THIS SUBTITLE IF THE RECOMMENDATION IS BEING MADE FOR RETALIATORY PURPOSES.~~

~~(F) A HEALTH CARE FACILITY MAY NOT EMPLOY AN INDIVIDUAL WHO IS LISTED IN THE REGISTRY ESTABLISHED UNDER § 19–347.1 OF THIS SUBTITLE.~~

(a) The Office of Health Care Quality shall reconvene the Abuser Registry Workgroup originally convened in 2012.

(b) The Abuser Registry Workgroup shall:

(1) review the previous work of the Abuser Registry Workgroup and the alternative approach described in the January 14, 2013, letter from the Acting Executive Director of the Office of Health Care Quality to the sponsors of Senate Bill 316 and House Bill 382 of 2012;

(2) monitor the implementation of recommendations included in the January 23, 2013, letter from the Acting Executive Director of the Office of Health Care Quality to the House Health and Government Operations Committee relating to:

(i) initiating a National Background Check Program supported by a federal grant;

(ii) educating the provider community about best practices for managing abuse and neglect and utilizing the criminal justice system in cases of abuse and neglect;

(iii) assisting law enforcement in the development of outreach and training concerning abuse and neglect in health care settings; and

(iv) exploring the need to strengthen statutory law relating to criminal history records checks of employees who are not licensed or certified under the Health Occupations Article; and

(3) recommend changes in statutory law, regulations, or procedures to deter abuse and neglect in health care settings.

(c) On or before January 1, 2014, the Office of Health Care Quality shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee on the findings and recommendations of the Abuser Registry Workgroup.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 240

(Senate Bill 356)

AN ACT concerning

Ex–Offender Business Development Program Study

FOR the purpose of requiring the Department of Business and Economic Development, the Department of Labor, Licensing, and Regulation, and the Department of Public Safety and Correctional Services jointly to study and

evaluate the feasibility of establishing a business development program for ex–offenders and to identify *certain* funding sources for certain purposes; requiring the Departments jointly to report their findings under this Act on or before a certain date; and generally relating to business development for ex–offenders.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Department of Business and Economic Development, the Department of Labor, Licensing, and Regulation, and the Department of Public Safety and Correctional Services jointly shall:

(1) study and evaluate the feasibility of establishing a business development program for ex–offenders that~~:~~

~~(i) invests in businesses run by ex–offenders; and~~

~~(ii)~~ provides business training for ex–offenders; and

(2) identify *nongovernmental* funding sources ~~to invest in ex–offender businesses and~~ to fund training programs.

(b) On or before October 1, 2014, the Department of Business and Economic Development, the Department of Labor, Licensing, and Regulation, and the Department of Public Safety and Correctional Services jointly shall report the findings under subsection (a) of this section, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 241

(House Bill 698)

AN ACT concerning

Ex–Offender Business Development Program Study

FOR the purpose of requiring the Department of Business and Economic Development, the Department of Labor, Licensing, and Regulation, and the

Department of Public Safety and Correctional Services jointly to study and evaluate the feasibility of establishing a business development program for ex–offenders and to identify certain funding sources for certain purposes; requiring the Departments jointly to report their findings under this Act on or before a certain date; and generally relating to business development for ex–offenders.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Department of Business and Economic Development, the Department of Labor, Licensing, and Regulation, and the Department of Public Safety and Correctional Services jointly shall:

(1) study and evaluate the feasibility of establishing a business development program for ex–offenders that~~:~~

~~(i) invests in businesses run by ex–offenders; and~~

~~(ii)~~ provides business training for ex–offenders; and

(2) identify nongovernmental funding sources ~~to invest in ex–offender businesses and~~ to fund training programs.

(b) On or before October 1, 2014, the Department of Business and Economic Development, the Department of Labor, Licensing, and Regulation, and the Department of Public Safety and Correctional Services jointly shall report the findings under subsection (a) of this section, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 242

(Senate Bill 358)

AN ACT concerning

State Board of Morticians and Funeral Directors – Authority to Discipline – Funeral Establishment Licenses

FOR the purpose of ~~expanding~~ altering the authority of the State Board of Morticians and Funeral Directors to discipline the holders of funeral establishment licenses ~~under certain circumstances~~; making a technical correction; and generally relating to the disciplinary authority of the State Board of Morticians and Funeral Directors and funeral establishment licenses.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 7–316
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

7–316.

(a) Subject to the hearing provisions of § 7–319 of this subtitle ~~[~~and except as to a funeral establishment license~~]~~, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) Fraudulently or deceptively uses a license;

(3) Commits fraud or misrepresentation in the practice of mortuary science;

(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(5) Aids or abets an unauthorized person in the practice of mortuary science;

(6) Advertises falsely or in a misleading manner;

(7) Solicits mortuary science business, either personally or by an agent, from a dying individual or the relatives of a dead or dying individual, other than through general advertising;

(8) Employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any other person to obtain business, either in general or for a licensee or funeral establishment;

(9) Directly or indirectly pays or offers to pay to obtain mortuary science business;

(10) Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing a dead human body to be disposed of there;

(11) Refuses to surrender custody of a dead human body on the demand of a person who is entitled to its custody;

(12) Sells or offers to sell any share, certificate, or interest in a mortuary science business with a promise or offer to perform services to the buyer at a cost less than that offered to the general public;

(13) Fails, after proper demand, to refund promptly any payments received under a pre–need contract with interest;

(14) At the time funeral arrangements are made, fails to give the contract required by § 7–404 of this title;

(15) Violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition;

(16) Practices mortuary science under a name other than:

(i) The name that appears on the license of that person; or

(ii) The name of a partnership in accordance with § 7–401 of this title;

(17) Signs an application for a funeral establishment license if the signer knew or should have known that grounds existed for which the funeral establishment license later was denied, suspended, or revoked;

(18) Violates any provision of this title or of the laws relating to cremation;

(19) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(20) Willfully makes or files a false report or record in the practice of mortuary science;

(21) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(22) Submits a false statement to collect a fee;

(23) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(24) Violates any rule or regulation adopted by the Board;

(25) Is professionally, physically, or mentally incompetent;

(26) Commits an act of unprofessional conduct in the practice of mortuary science;

(27) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is ~~HIV~~ **HIV/AIDS** positive;

(28) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(29) Fails to allow an inspection under § 7–205(a)(8) of this title;

(30) Fails to comply with inspection requirements in the time specified by the Board;

(31) Fails to provide the Board the certification required under § 7–405(i) of this title; or

(32) Fails to comply with § 5–513 of the Health – General Article.

(b) **[**(1)**]** Subject to the hearing provisions of § 7–319 of this subtitle **[**and paragraph (2) of this subsection**]**, the Board may **DENY A LICENSE TO AN APPLICANT FOR A FUNERAL ESTABLISHMENT LICENSE,** reprimand**[**,**]** **THE HOLDER OF A FUNERAL ESTABLISHMENT LICENSE,** place **THE HOLDER OF A FUNERAL**

ESTABLISHMENT LICENSE on probation, **[**deny,**]** **OR** suspend**[**,**]** or revoke a funeral establishment license **[**for**]** **IF, WITH THE KNOWLEDGE OR AT THE DIRECTION OF THE FUNERAL ESTABLISHMENT:**

~~**(1)** **FOR** any of the grounds listed in subsection (a) of this section**; OR**~~

~~**[**(2) The Board may not reprimand, place on probation, deny, suspend, or revoke a funeral establishment license because of a violation of a provision of this title by an employee of the establishment, unless the employee has a proprietary interest in the business that is conducted from the establishment.**]**~~

~~**(2)** **BECAUSE OF A VIOLATION OF A PROVISION OF THIS TITLE BY AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT.**~~

(1) AN UNLICENSED INDIVIDUAL PRACTICES MORTUARY SCIENCE OR FUNERAL DIRECTION FOR OR WITHIN THE FUNERAL ESTABLISHMENT;

(2) AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT FAILS TO COMPLY WITH § 5–513(B) AND (D) OF THE HEALTH – GENERAL ARTICLE; OR

(3) AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT FAILS TO COMPLY WITH § 7–405 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 243

(House Bill 314)

AN ACT concerning

State Board of Morticians and Funeral Directors – Authority to Discipline – Funeral Establishment Licenses

FOR the purpose of ~~expanding~~ altering the authority of the State Board of Morticians and Funeral Directors to discipline the holders of funeral establishment licenses ~~under certain circumstances~~; making a technical correction; and generally relating to the disciplinary authority of the State Board of Morticians and Funeral Directors and funeral establishment licenses.

BY repealing and reenacting, with amendments,

Article – Health Occupations
Section 7–316
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

7–316.

(a) Subject to the hearing provisions of § 7–319 of this subtitle [and except as to a funeral establishment license], the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) Fraudulently or deceptively uses a license;

(3) Commits fraud or misrepresentation in the practice of mortuary science;

(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(5) Aids or abets an unauthorized person in the practice of mortuary science;

(6) Advertises falsely or in a misleading manner;

(7) Solicits mortuary science business, either personally or by an agent, from a dying individual or the relatives of a dead or dying individual, other than through general advertising;

(8) Employs, pays, or offers to pay a “capper”, “steerer”, “solicitor”, or any other person to obtain business, either in general or for a licensee or funeral establishment;

(9) Directly or indirectly pays or offers to pay to obtain mortuary science business;

(10) Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing a dead human body to be disposed of there;

(11) Refuses to surrender custody of a dead human body on the demand of a person who is entitled to its custody;

(12) Sells or offers to sell any share, certificate, or interest in a mortuary science business with a promise or offer to perform services to the buyer at a cost less than that offered to the general public;

(13) Fails, after proper demand, to refund promptly any payments received under a pre–need contract with interest;

(14) At the time funeral arrangements are made, fails to give the contract required by § 7–404 of this title;

(15) Violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition;

(16) Practices mortuary science under a name other than:

(i) The name that appears on the license of that person; or

(ii) The name of a partnership in accordance with § 7–401 of this title;

(17) Signs an application for a funeral establishment license if the signer knew or should have known that grounds existed for which the funeral establishment license later was denied, suspended, or revoked;

(18) Violates any provision of this title or of the laws relating to cremation;

(19) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(20) Willfully makes or files a false report or record in the practice of mortuary science;

(21) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(22) Submits a false statement to collect a fee;

(23) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(24) Violates any rule or regulation adopted by the Board;

(25) Is professionally, physically, or mentally incompetent;

(26) Commits an act of unprofessional conduct in the practice of mortuary science;

(27) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is ~~HIV~~ **HIV/AIDS** positive;

(28) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(29) Fails to allow an inspection under § 7–205(a)(8) of this title;

(30) Fails to comply with inspection requirements in the time specified by the Board;

(31) Fails to provide the Board the certification required under § 7–405(i) of this title; or

(32) Fails to comply with § 5–513 of the Health – General Article.

(b) **[**(1)**]** Subject to the hearing provisions of § 7–319 of this subtitle **[**and paragraph (2) of this subsection**]**, the Board may **DENY A LICENSE TO AN APPLICANT FOR A FUNERAL ESTABLISHMENT LICENSE,** reprimand**[**,**]** **THE HOLDER OF A FUNERAL ESTABLISHMENT LICENSE,** place **THE HOLDER OF A FUNERAL ESTABLISHMENT LICENSE** on probation, **[**deny,**]** **OR** suspend**[**,**]** or revoke a funeral establishment license **[**for**]** **IF, WITH THE KNOWLEDGE OR AT THE DIRECTION OF THE FUNERAL ESTABLISHMENT:**

~~**(1)** **FOR** any of the grounds listed in subsection (a) of this section**; OR**~~

~~[(2) The Board may not reprimand, place on probation, deny, suspend, or revoke a funeral establishment license because of a violation of a provision of this title by an employee of the establishment, unless the employee has a proprietary interest in the business that is conducted from the establishment.]~~

~~(2) BECAUSE OF A VIOLATION OF A PROVISION OF THIS TITLE BY AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT.~~

(1) AN UNLICENSED INDIVIDUAL PRACTICES MORTUARY SCIENCE OR FUNERAL DIRECTION FOR OR WITHIN THE FUNERAL ESTABLISHMENT;

(2) AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT FAILS TO COMPLY WITH § 5–513(B) AND (D) OF THE HEALTH – GENERAL ARTICLE; OR

(3) AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT FAILS TO COMPLY WITH § 7–405 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 244

(Senate Bill 371)

AN ACT concerning

Garrett County – Alcoholic Beverages – Sunday Sales

FOR the purpose of specifying that certain provisions of law concerning the Sunday sale of alcoholic beverages in Garrett County apply to a precinct of an election district in which the voters in a referendum authorized by law approve Sunday sales; specifying that certain provisions of law concerning Sunday sales apply to a holder of a Class D license operating an establishment that meets certain specifications; providing for certain fees; making technical and stylistic changes; and generally relating to alcoholic beverages sales in Garrett County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 11–512(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–512(c)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

11–512.

(a) This section applies only in Garrett County.

(c) (1) The provisions of this subsection apply in:

(i) Election districts 11 and 15, in which the voters approved Sunday sales in the referendum authorized by law in November 1996; and

(ii) Any other election district **OR PRECINCT OF AN ELECTION DISTRICT** in which the voters in a referendum authorized by law approve Sunday sales as specified in this subsection.

(2) This subsection only applies to on–premises sales by **[**holders**]:**

(I) A HOLDER of **A** Class C service club **[**licenses**] LICENSE;** and

(II) [, subject**] SUBJECT** to paragraph (4) of this subsection**[**, holders**] A HOLDER** of **A** Class B **[**licenses**] LICENSE**, special 2–day Class C **[**licenses**] LICENSE**, special 6–day Class C **[**licenses and**] LICENSE**, **OR** special 12–day Class C **[**licenses**] LICENSE; OR**

(III) A HOLDER OF A CLASS D LICENSE OPERATING AN ESTABLISHMENT THAT:

1. IS IN A PERMANENT BUILDING;

2. HAS A SEATING CAPACITY AT TABLES, NOT INCLUDING SEATS AT BARS OR COUNTERS, FOR AT LEAST 20 PERSONS;

3. IS EQUIPPED WITH A FULL–SERVICE COMMERCIAL KITCHEN CAPABLE OF PREPARING AND SERVING FULL–COURSE MEALS FOR AT LEAST 20 PERSONS AT ONE SEATING; AND

4. IS APPROVED BY THE COUNTY BOARD OF LICENSE COMMISSIONERS, DEPARTMENT OF PUBLIC UTILITIES, HEALTH DEPARTMENT, AND PLANNING AND LAND DEVELOPMENT OFFICE.

(3) Sunday sales may begin, where permitted, at 1 p.m. and continue until 10 p.m.

(4) (i) This paragraph does not apply to a holder of a Class C service club license.

(ii) Sunday sales may be made only when the consumer places an order for a meal simultaneously or prior to placing an order for an alcoholic beverage or the consumer is otherwise entitled to a meal on the premises as part of a prearranged event, such as a banquet, where the alcoholic beverage is served. Bar or counter sales may be made as long as the consumer complies with the requirement of this paragraph.

(5) In addition to the usual license fee, the holder of a Class C service club license **[**or**],** Class B license**, OR CLASS D LICENSE** who wants to provide Sunday sales and who is otherwise eligible to provide Sunday sales under this subsection shall pay an additional $250 for the privilege of Sunday sales.

(6) At the time the Class C service club license **[**or**],** Class B license**, OR CLASS D LICENSE** is issued, the Board shall charge a $250 issuing fee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 245

(House Bill 464)

AN ACT concerning

Garrett County – Alcoholic Beverages – Sunday Sales

FOR the purpose of specifying that certain provisions of law concerning the Sunday sale of alcoholic beverages in Garrett County apply to a precinct of an election district in which the voters in a referendum authorized by law approve Sunday sales; specifying that certain provisions of law concerning Sunday sales apply to a holder of a Class D license operating an establishment that meets certain

specifications; providing for certain fees; making technical and stylistic changes; and generally relating to alcoholic beverages sales in Garrett County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 11–512(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–512(c)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

11–512.

(a) This section applies only in Garrett County.

(c) (1) The provisions of this subsection apply in:

(i) Election districts 11 and 15, in which the voters approved Sunday sales in the referendum authorized by law in November 1996; and

(ii) Any other election district **OR PRECINCT OF AN ELECTION DISTRICT** in which the voters in a referendum authorized by law approve Sunday sales as specified in this subsection.

(2) This subsection only applies to on–premises sales by**[**holders**]:**

(I) A HOLDER of **A** Class C service club **[**licenses**] LICENSE;** and

(II) [, subject**] SUBJECT** to paragraph (4) of this subsection**[**, holders**] A HOLDER** of **A** Class B **[**licenses**] LICENSE**, special 2–day Class C **[**licenses**] LICENSE**, special 6–day Class C **[**licenses and**] LICENSE**, **OR** special 12–day Class C **[**licenses**] LICENSE; OR**

(III) A HOLDER OF A CLASS D LICENSE OPERATING AN ESTABLISHMENT THAT:

1. IS IN A PERMANENT BUILDING;

2. HAS A SEATING CAPACITY AT TABLES, NOT INCLUDING SEATS AT BARS OR COUNTERS, FOR AT LEAST 20 PERSONS;

3. IS EQUIPPED WITH A FULL–SERVICE COMMERCIAL KITCHEN CAPABLE OF PREPARING AND SERVING FULL–COURSE MEALS FOR AT LEAST 20 PERSONS AT ONE SEATING; AND

4. IS APPROVED BY THE COUNTY BOARD OF LICENSE COMMISSIONERS, DEPARTMENT OF PUBLIC UTILITIES, HEALTH DEPARTMENT, AND PLANNING AND LAND DEVELOPMENT OFFICE.

(3) Sunday sales may begin, where permitted, at 1 p.m. and continue until 10 p.m.

(4) (i) This paragraph does not apply to a holder of a Class C service club license.

(ii) Sunday sales may be made only when the consumer places an order for a meal simultaneously or prior to placing an order for an alcoholic beverage or the consumer is otherwise entitled to a meal on the premises as part of a prearranged event, such as a banquet, where the alcoholic beverage is served. Bar or counter sales may be made as long as the consumer complies with the requirement of this paragraph.

(5) In addition to the usual license fee, the holder of a Class C service club license **[**or**],** Class B license**, OR CLASS D LICENSE** who wants to provide Sunday sales and who is otherwise eligible to provide Sunday sales under this subsection shall pay an additional $250 for the privilege of Sunday sales.

(6) At the time the Class C service club license **[**or**],** Class B license**, OR CLASS D LICENSE** is issued, the Board shall charge a $250 issuing fee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 246

(Senate Bill 374)

AN ACT concerning

~~Consumer Protection~~ Office of the Attorney General – Workgroup on Children's Online Privacy Protection

FOR the purpose of ~~prohibiting a person from violating the federal Children's Online Privacy Protection Act; prohibiting certain persons who engage in certain activities relating to the Internet or an online service from using certain information to display or transmit an advertisement for a product or service to certain children under certain circumstances; providing that a violation of this Act is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement actions and penalties; authorizing an individual who is affected by a violation of this Act to bring an action against the person that violates this Act to recover reasonable attorney's fees and damages in a certain amount; defining certain terms~~ requiring the Office of the Attorney General to convene and direct a workgroup to examine certain issues relating to the protection of children's online privacy; requiring the workgroup to include certain representatives; requiring the Office of the Attorney General to report the findings and any recommendations of the workgroup to certain committees of the General Assembly on or before a certain date; and generally relating to the protection of children's online privacy.

~~BY adding to~~
~~Article – Commercial Law~~
~~Section 14–4001 through 14–4004 to be under the new subtitle "Subtitle 40. Children's Online Privacy Protection"~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~the Laws of Maryland read as follows~~:

~~**Article – Commercial Law**~~

~~**SUBTITLE 40. CHILDREN'S ONLINE PRIVACY PROTECTION.**~~

~~**14–4001.**~~

~~**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(B) "ADVERTISEMENT" HAS THE MEANING STATED IN § 13–101 OF THIS ARTICLE.**~~

~~**(C) "CHILD" MEANS AN INDIVIDUAL UNDER THE AGE OF 13 YEARS.**~~

~~**(D) "COLLECTS" HAS THE MEANING STATED IN 16 C.F.R. § 312.2.**~~

~~(E) "OPERATOR" MEANS A PERSON THAT:~~

~~(1) OPERATES A WEB SITE OR AN ONLINE SERVICE AND COLLECTS OR MAINTAINS PERSONAL INFORMATION FROM OR ABOUT THE USERS OR VISITORS TO THE WEB SITE OR ONLINE SERVICE;~~

~~(2) COLLECTS PERSONAL INFORMATION DESCRIBED IN ITEM (1) OF THIS SUBSECTION ON BEHALF OF THE OPERATOR OF A WEB SITE OR ONLINE SERVICE UNDER ITEM (1) OF THIS SUBSECTION; OR~~

~~(3) OFFERS PRODUCTS OR SERVICES FOR SALE THROUGH A WEB SITE OR ONLINE SERVICE UNDER ITEM (1) OF THIS SUBSECTION.~~

~~(F) "PERSON" HAS THE MEANING STATED IN § 13–101 OF THIS ARTICLE.~~

~~(G) "PERSONAL INFORMATION" HAS THE MEANING STATED IN 16 C.F.R. § 312.2.~~

~~(H) "THIRD PARTY" HAS THE MEANING STATED IN 16 C.F.R. § 312.2.~~

~~(I) "VERIFIABLE CONSENT" HAS THE MEANING STATED IN 16 C.F.R. § 312.2.~~

~~14–4002.~~

~~A PERSON MAY NOT VIOLATE THE FEDERAL CHILDREN'S ONLINE PRIVACY PROTECTION ACT, 15 U.S.C. §§ 6501 THROUGH 6506, AS IMPLEMENTED BY THE FEDERAL TRADE COMMISSION IN THE CHILDREN'S ONLINE PRIVACY PROTECTION RULE (16 C.F.R. PART 312).~~

~~14–4003.~~

~~AN OPERATOR WHO KNOWS OR HAS REASON TO KNOW THAT THE OPERATOR IS COLLECTING OR MAINTAINING PERSONAL INFORMATION FROM A CHILD WHO RESIDES IN THE STATE MAY NOT USE THE PERSONAL INFORMATION TO DISPLAY OR TRANSMIT AN ADVERTISEMENT FOR A PRODUCT OR SERVICE TO THE CHILD UNLESS THE OPERATOR:~~

~~(1) PROVIDES NOTICE ON THE WEB SITE OR ONLINE SERVICE STATING:~~

~~(I) WHAT INFORMATION THE OPERATOR COLLECTS FROM CHILDREN;~~

~~(II) HOW THE OPERATOR USES THE INFORMATION IN RELATION TO ADVERTISEMENTS; AND~~

~~(III) WHETHER THE OPERATOR DISCLOSES THE INFORMATION TO ANY THIRD PARTY;~~

~~(2) OBTAINS VERIFIABLE CONSENT BEFORE DISPLAYING OR TRANSMITTING THE ADVERTISEMENT TO THE CHILD; AND~~

~~(3) CLEARLY IDENTIFIES THE ADVERTISEMENT AS AN ADVERTISEMENT.~~

~~14–4004.~~

~~(A) A VIOLATION OF THIS SUBTITLE IS:~~

~~(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND~~

~~(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.~~

~~(B) IN ADDITION TO THE REMEDIES PROVIDED IN § 13–408 OF THIS ARTICLE, AN INDIVIDUAL WHO IS AFFECTED BY A VIOLATION OF THIS SUBTITLE MAY BRING AN ACTION AGAINST A PERSON THAT VIOLATES THIS SUBTITLE TO RECOVER:~~

~~(1) REASONABLE ATTORNEY'S FEES; AND~~

~~(2) DAMAGES IN THE AMOUNT OF THE GREATER OF:~~

~~(I) $500 FOR EACH VIOLATION; OR~~

~~(II) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE VIOLATION.~~

(a) The Office of the Attorney General shall convene and direct a workgroup to examine issues relating to the protection of children's privacy while using the Internet and mobile applications ("children's online privacy"), including:

(1) the nature and extent of data collected about children through Internet–based and mobile application–based advertising ("online advertising");

(2) current and forthcoming federal and state regulation of children's online privacy and online advertising and associated data collection;

(3) the effects on children of online behavioral advertising, native advertising, social advertising, and other forms of online advertising;

(4) best practices used by the Internet industry and the mobile application industry to protect children's online privacy;

(5) best practices urged by consumer advocates, children's health advocates, and regulators to protect children's online privacy; and

(6) the effectiveness of voluntary standards as they relate to children's online privacy.

(b) (1) The workgroup required under subsection (a) of this section shall include representatives of State government, industry leaders, members of the academic community studying children's online privacy and the effects of online advertising on children, consumer advocates, and children's health advocates.

(2) The Office of the Attorney General shall invite representatives of relevant federal agencies to participate in the workgroup.

(c) On or before December 31, 2013, the Office of the Attorney General shall report to the Senate Finance Committee and House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the findings of the workgroup and any resulting recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 247

(Senate Bill 375)

AN ACT concerning

Commercial Law – Maryland Credit Services Businesses Act – Scope

FOR the purpose of altering the definition of "credit services business" for purposes of the Maryland Credit Services Businesses Act to exclude a person licensed by the State as an associate real estate broker or a real estate salesperson; and generally relating to the Maryland Credit Services Businesses Act.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 14–1901(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 14–1901(e)(3)
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Commercial Law

14–1901.

(a) In this subtitle the following words have the meanings indicated.

(e) (3) "Credit services business" does not include:

(i) Any person authorized to make loans or extensions of credit under the laws of this State or the United States who is actively engaged in the business of making loans or other extensions of credit to residents of this State;

(ii) Any bank, trust company, savings bank, or savings and loan association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any credit union organized and chartered under the laws of this State or the United States;

(iii) Any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));

(iv) Any person licensed as a real estate broker**, AN ASSOCIATE REAL ESTATE BROKER, OR A REAL ESTATE SALESPERSON** by this State where the person is acting within the course and scope of that license;

(v) Any person licensed as a mortgage lender by this State;

(vi) An individual admitted to the Bar of the Court of Appeals of Maryland when the individual renders services within the course and scope of practice by the individual as a lawyer and does not engage in the credit services business on a regular and continuing basis;

(vii) Any broker–dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker–dealer is acting within the course and scope of that regulation;

(viii) Any consumer reporting agency as defined in the federal Fair Credit Reporting Act (15 U.S.C. §§ 1681 – 1681t) or in § 14–1201(e) of this title; or

(ix) An individual licensed by the Maryland Board of Public Accountancy when the individual renders services within the course and scope of practice by the individual as a certified public accountant and does not engage in the credit services business on a regular and continuing basis.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 248

(Senate Bill 380)

AN ACT concerning

Department of Health and Mental Hygiene – Workgroup on Cancer Clusters and Environmental Causes of Cancer

FOR the purpose of requiring the Department of Health and Mental Hygiene, in consultation with the Department of the Environment, to convene a certain workgroup to examine certain issues; requiring the workgroup to include certain legislators and representatives; requiring the Department of Health and Mental Hygiene to report the findings and any recommendations of the workgroup to the Governor and the General Assembly on or before a certain date; and generally relating to cancer clusters and environmental causes of cancer.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Department of Health and Mental Hygiene, in consultation with the Department of the Environment, shall convene a workgroup to examine issues relating to the investigation of potential cancer clusters in the State and potential environmental causes of cancer, including:

(1) the process that State agencies use to research and identify cancer clusters in the State;

(2) communication between State agencies and between State and federal agencies regarding research about and the identification of cancer clusters and potential environmental causes of cancer;

(3) research being conducted by the academic medical institutions in the State on potential cancer clusters and how findings from this research are communicated to the appropriate State and federal agencies; and

(4) whether additional information regarding potential cancer clusters and potential environmental causes of cancer should be provided in annual reports to the public.

(b) (1) The workgroup required under this section shall include:

(i) one member of the Senate of Maryland, appointed by the President of the Senate;

(ii) one member of the House of Delegates, appointed by the Speaker of the House; ~~and~~

(iii) representatives of academic medical institutions in the State, advocates for cancer patients, ~~legislators,~~ scientists, and environmentalists*; and*

(iv) at least one representative of a manufacturing business in the State.

(2) In selecting members of the workgroup described in paragraph (1)(iii) *and (iv)* of this subsection, the Department of Health and Mental Hygiene shall include representatives from both urban and rural areas of the State.

(3) The Department of Health and Mental Hygiene shall invite representatives of federal agencies to participate in the workgroup.

(c) On or before June 30, 2014, the Department of Health and Mental Hygiene shall report the findings of the workgroup required under this section and any recommendations of the workgroup to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 249

(House Bill 1343)

AN ACT concerning

Department of Health and Mental Hygiene – Workgroup on Cancer Clusters and Environmental Causes of Cancer

FOR the purpose of requiring the Department of Health and Mental Hygiene, in consultation with the Department of the Environment, to convene a certain workgroup to examine certain issues; requiring the workgroup to include certain legislators and representatives; requiring the Department of Health and Mental Hygiene to report the findings and any recommendations of the workgroup to the Governor and the General Assembly on or before a certain date; and generally relating to cancer clusters and environmental causes of cancer.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Department of Health and Mental Hygiene, in consultation with the Department of the Environment, shall convene a workgroup to examine issues relating to the investigation of potential cancer clusters in the State and potential environmental causes of cancer, including:

(1) the process that State agencies use to research and identify cancer clusters in the State;

(2) communication between State agencies and between State and federal agencies regarding research about and the identification of cancer clusters and potential environmental causes of cancer;

(3) research being conducted by the academic medical institutions in the State on potential cancer clusters and how findings from this research are communicated to the appropriate State and federal agencies; and

(4) whether additional information regarding potential cancer clusters and potential environmental causes of cancer should be provided in annual reports to the public.

(b) (1) The workgroup required under this section shall include:

(i) one member of the Senate of Maryland, appointed by the President of the Senate;

(ii) one member of the House of Delegates, appointed by the Speaker of the House;

(iii) representatives of academic medical institutions in the State, advocates for cancer patients, ~~legislators,~~ scientists, and environmentalists; and

(iv) at least one representative of a manufacturing business in the State.

(2) In selecting members of the workgroup described in paragraph (1)(iii) and (iv) of this subsection, the Department of Health and Mental Hygiene shall include representatives from both urban and rural areas of the State.

(3) The Department of Health and Mental Hygiene shall invite representatives of federal agencies to participate in the workgroup.

(c) On or before June 30, 2014, the Department of Health and Mental Hygiene shall report the findings of the workgroup required under this section and any recommendations of the workgroup to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 250

(Senate Bill 385)

AN ACT concerning

State Government – Health, Education, and Social Services ~~Provider Data Warehouse~~ – Submission of Documents in Electronic Form

FOR the purpose of ~~requiring the State to authorize private sector development of a certain data warehouse for certain providers; authorizing a certain provider to store certain information in the data warehouse; prohibiting a certain provider from using the data warehouse for certain purposes; authorizing a certain provider to provide a State agency with certain information in a certain manner; requiring a State agency to accept a certain submission as the equivalent of certain documents; prohibiting a State agency from requiring a certain provider to use the data warehouse; requiring a provider that uses the data warehouse to ensure that the data is current and accessible to a certain State agency; authorizing a State agency to request additional or updated~~

~~information from a certain provider under certain circumstances; requiring a provider to submit certain information to a certain State agency within a certain period of time after receiving a request from the agency; requiring access to the data warehouse to be provided to a State agency free of charge; defining certain terms; and generally relating to a health, education, and social services provider data warehouse~~ requiring the Council for the Procurement of Health, Education, and Social Services to establish a workgroup to determine a process for certain entities to submit certain electronic documents to certain agencies; requiring the Council to report to certain committees of the General Assembly on or before a certain date; providing for the application of this Act; and generally relating to health, education, and social services and the electronic submission of documents.

~~BY adding to~~
~~Article – State Government~~
~~Section 10–645 to be under the new part "Part VI. Health, Education, and Social Services Provider Data Warehouse"~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

Preamble

WHEREAS, The Task Force to Study the Procurement of Health, Education, and Social Services by State Agencies recommended the development of an Internet–based data warehouse (document vault) eliminating duplicative and voluminous submissions to multiple agencies; and

WHEREAS, The State remains committed to identifying all means of environmentally sound communication methods; and

WHEREAS, Providers of health, education, and social services are committed to efficient and cost effective transmission and preservation of data; and

WHEREAS, Private providers of health, education, and social services are required to submit to State licensing agencies volumes of corporate, fiscal, and administrative documents on a recurring basis and are required to keep voluminous certification files on foster parents; and

WHEREAS, All State agencies, facilities, and programs are taking steps to support Governor O'Malley's Smart, Green, and Growing initiative, which includes encouraging State employees to view documents electronically instead of on paper whenever possible; now, therefore,

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:~~

~~**Article – State Government**~~

~~10–643. RESERVED.~~

~~10–644. RESERVED.~~

~~PART VI. HEALTH, EDUCATION, AND SOCIAL SERVICES PROVIDER DATA WAREHOUSE.~~

~~10–645.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "DATA WAREHOUSE" MEANS AN INTERNET–BASED, SECURE, AND CONSOLIDATED DOCUMENT STORAGE AND RETRIEVAL SYSTEM FOR CORPORATE, FISCAL, AND ADMINISTRATIVE DATA NECESSARY FOR THE LICENSING AND PROCUREMENT OF HEALTH, EDUCATION, AND SOCIAL SERVICES AND MADE AVAILABLE TO STATE AGENCY PERSONNEL FOR THOSE PURPOSES.~~

~~(3) "PROVIDER" MEANS A HEALTH, EDUCATION, OR SOCIAL SERVICES PROVIDER.~~

~~(B) THE STATE SHALL AUTHORIZE PRIVATE SECTOR DEVELOPMENT AND IMPLEMENTATION OF A DATA WAREHOUSE FOR MAINTAINING CORPORATE, FISCAL, AND ADMINISTRATIVE RECORDS OF PRIVATE PROVIDERS.~~

~~(C) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PRIVATE PROVIDER MAY USE THE DATA WAREHOUSE TO STORE DOCUMENTS REQUIRED:~~

~~(1) FOR THE INITIAL LICENSURE AND RE–LICENSURE OF PRIVATE HEALTH, EDUCATION, AND SOCIAL SERVICES;~~

~~(2) FOR THE PERIODIC LICENSING AND CONTRACT COMPLIANCE MONITORING OF PROGRAMS SPECIFIED IN ITEM (1) OF THIS SUBSECTION;~~

~~(3) FOR THE CERTIFICATION AND RE–CERTIFICATION OF PRIVATE TREATMENT FOSTER PARENTS IN ACCORDANCE WITH COMAR 07.05.02; AND~~

~~(4) BY A STATE AGENCY FOR THE PROCUREMENT OF PRIVATE HEALTH, EDUCATION, AND SOCIAL SERVICES.~~

~~(D) A PRIVATE PROVIDER MAY NOT USE THE DATA WAREHOUSE FOR THE STORAGE OR TRANSMISSION OF CLIENT FILES OR RECORDS.~~

~~(E) IF A PRIVATE PROVIDER USES THE DATA WAREHOUSE:~~

~~(1) THE PRIVATE PROVIDER MAY PROVIDE A STATE AGENCY WITH THE NECESSARY INFORMATION TO ACCESS DOCUMENTS IN THE DATA WAREHOUSE INSTEAD OF SUBMITTING PAPER DOCUMENTS OR ELECTRONIC FILES; AND~~

~~(2) THE STATE AGENCY SHALL ACCEPT THE SUBMISSION AS THE EQUIVALENT OF PAPER DOCUMENTS OR ELECTRONIC FILES.~~

~~(F) A STATE AGENCY MAY NOT REQUIRE A PROVIDER TO USE THE DATA WAREHOUSE.~~

~~(G) A PROVIDER THAT USES THE DATA WAREHOUSE SHALL ENSURE THAT THE DATA STORED BY THE PROVIDER IS CURRENT AND ACCESSIBLE TO THE APPROPRIATE STATE AGENCY.~~

~~(H) (1) IF THE INFORMATION PROVIDED TO THE APPROPRIATE STATE AGENCY IS NOT CURRENT OR IS UNAVAILABLE FROM THE DATA WAREHOUSE, THE STATE AGENCY MAY REQUEST ADDITIONAL OR UPDATED INFORMATION FROM THE PROVIDER.~~

~~(2) A PROVIDER SHALL SUBMIT ANY ADDITIONAL OR UPDATED INFORMATION TO THE DATA WAREHOUSE WITHIN 10 BUSINESS DAYS AFTER RECEIVING A REQUEST FROM A STATE AGENCY.~~

~~(I) ACCESS TO THE DATA WAREHOUSE SHALL BE PROVIDED TO STATE AGENCIES WITHOUT CHARGE.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Council for the Procurement of Health, Education, and Social Services shall:

(a) establish a workgroup of Council members and appropriate staff from the State agencies that license health, education, or social services programs to determine a process for nongovernmental entities that provide health, education, or social services in the State to submit documents in an electronic form to the State agencies, by direct transmission or by posting to an online system for document storage, including:

(1) naming and formatting documents;

(2) submitting, updating, and retrieving documents;

(3) security measures;

(4) standards necessary for the efficient and secure submission of electronic documents; and

(5) a recommended implementation date; and

(b) on or before ~~October 1, 2013~~ *January 1, 2014*, report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the process determined under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed to limit any existing authority of a State agency to accept documents or information by electronic transmission.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 251

(Senate Bill 390)

AN ACT concerning

Health – Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading – Posting Requirement and Task Force

FOR the purpose of requiring certain food establishments to display, in a certain manner and location, a certain poster relating to food allergies ~~and to include on a menu provided by the food establishment a notice to a customer that the customer should inform the server of any food allergies~~; requiring, on or before a certain date, the Department of Health and Mental Hygiene, in consultation with certain entities, to create and make available on its Web site a certain poster ~~and certain notice; requiring certain individuals to view a certain video and be knowledgeable about certain issues concerning food allergies and food preparation under certain circumstances; requiring the Department, in consultation with certain entities, to develop a certain program for food establishments to be designated as food allergy friendly, issue certain guidelines and requirements regarding the program, and maintain and make available to the public on its Web site a certain list of food establishments; authorizing the~~

~~Department to adopt regulations to carry out certain provisions of this Act; requiring the Governor to annually proclaim a certain week as Food Allergy Awareness Week; requiring the Department, in consultation with certain entities, to report to certain committees of the General Assembly on or before a certain date regarding the impact of certain provisions of this Act; defining a certain term; and generally relating to food allergy awareness~~; establishing a Task Force to Study Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading; providing for the membership and chair of the Task Force; authorizing the Task Force to form subcommittees from among its members; requiring the Department of Health and Mental Hygiene to provide staff for the Task Force; providing that a member of the Task Force may not receive certain compensation but is entitled to certain reimbursement; providing for the duties of the Task Force; requiring the Task Force to report certain findings and recommendations, on or before a certain date, to the Governor and certain committees of the General Assembly; providing for the effective dates of this Act; providing for the termination of certain provisions of this Act; and generally relating to food allergy awareness, food safety, and food service facility letter grading.

BY adding to
Article – Health – General
Section 21–330.2
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

~~BY adding to~~
~~Article – State Government~~
~~Section 13–601 to be under the new subtitle "Subtitle 6. Commemorative Weeks"~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

21–330.2.

(A) ~~(1)~~ BEGINNING MARCH 1, 2014, A FOOD ESTABLISHMENT SHALL~~:~~

~~(I)~~ ~~DISPLAY~~ DISPLAY PROMINENTLY IN THE STAFF AREA OF THE FOOD ESTABLISHMENT A POSTER RELATING TO FOOD ALLERGY AWARENESS THAT INCLUDES INFORMATION REGARDING THE RISK OF AN ALLERGIC REACTION~~; AND~~

~~(II) INCLUDE ON A MENU PROVIDED BY THE FOOD ESTABLISHMENT A NOTICE TO A CUSTOMER THAT THE CUSTOMER SHOULD INFORM THE SERVER OF ANY FOOD ALLERGIES~~.

~~(2)~~ (B) ON OR BEFORE JANUARY 1, 2014, THE DEPARTMENT, IN CONSULTATION WITH THE RESTAURANT ASSOCIATION OF MARYLAND AND ~~THE FOOD ALLERGY & ANAPHYLAXIS NETWORK~~ FOOD ALLERGY RESEARCH AND EDUCATION, SHALL CREATE AND MAKE AVAILABLE ON ITS WEB SITE~~:~~

~~(I) THE~~ THE POSTER REQUIRED TO BE DISPLAYED UNDER ~~PARAGRAPH (1)(I) OF THIS~~ SUBSECTION (A) OF THIS SECTION.~~; AND~~

~~(II) THE NOTICE REQUIRED TO BE INCLUDED ON A MENU UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.~~

~~(B) (1) IN THIS SUBSECTION, "PERSON IN CHARGE" MEANS THE INDIVIDUAL WHO IS:~~

~~(I) PRESENT AT A FOOD ESTABLISHMENT; AND~~

~~(II) RESPONSIBLE FOR THE OPERATION OF THE FOOD ESTABLISHMENT.~~

~~(2) IN ORDER TO BE DESIGNATED THE PERSON IN CHARGE BY A FOOD ESTABLISHMENT, AN INDIVIDUAL SHALL:~~

~~(I) VIEW A VIDEO CONCERNING FOOD ALLERGIES THAT HAS BEEN APPROVED BY THE DEPARTMENT, IN CONSULTATION WITH THE RESTAURANT ASSOCIATION OF MARYLAND AND THE FOOD ALLERGY & ANAPHYLAXIS NETWORK; AND~~

~~(II) BE KNOWLEDGEABLE ABOUT RELEVANT ISSUES CONCERNING FOOD ALLERGIES AND FOOD PREPARATION.~~

~~(C) THE DEPARTMENT SHALL:~~

~~(1) DEVELOP, IN CONSULTATION WITH THE RESTAURANT ASSOCIATION OF MARYLAND AND THE FOOD ALLERGY & ANAPHYLAXIS NETWORK, A VOLUNTARY PROGRAM FOR FOOD ESTABLISHMENTS TO BE DESIGNATED AS FOOD ALLERGY FRIENDLY;~~

~~(2) ISSUE GUIDELINES AND REQUIREMENTS THAT A FOOD ESTABLISHMENT MUST MEET TO BE DESIGNATED AS FOOD ALLERGY FRIENDLY, INCLUDING A REQUIREMENT TO MAINTAIN ON THE PREMISES OF THE FOOD~~

~~ESTABLISHMENT AND MAKE AVAILABLE TO THE PUBLIC A MASTER LIST OF ALL INGREDIENTS USED IN THE PREPARATION OF EACH FOOD ITEM AVAILABLE FOR PUBLIC CONSUMPTION; AND~~

~~(3) MAINTAIN AND MAKE AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE A LIST OF FOOD ESTABLISHMENTS THAT HAVE BEEN DESIGNATED AS FOOD ALLERGY FRIENDLY.~~

~~(D) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

~~Article – State Government~~

~~SUBTITLE 6. COMMEMORATIVE WEEKS.~~

~~13–601.~~

~~THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND FULL WEEK OF MAY AS FOOD ALLERGY AWARENESS WEEK.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 30, 2015, the Department of Health and Mental Hygiene, in consultation with the Restaurant Association of Maryland and the Food Allergy & Anaphylaxis Network, shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the impact of § 21–330.2 of the Health – General Article, as enacted by Section 1 of this Act, including the compliance rate of food establishments.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force to Study Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading.

(b) The Task Force consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) one representative of the Department of Health and Mental Hygiene, appointed by the Secretary of Health and Mental Hygiene;

(4) the President of the Baltimore City Council, or the President's designee;

(5) the Prince George's County Health Officer, or the Health Officer's designee; and

(6) the following members, appointed by the Governor:

(i) one representative of Food Allergy Research and Education;

(ii) one consumer with a food allergy;

(iii) one parent of a child with a food allergy;

(iv) one representative of the Restaurant Association of Maryland;

(v) one representative of the National Restaurant Association;

(vi) one representative of the Maryland Retailers Association;

(vii) one representative of the Maryland Hotel and Lodging Association;

(viii) one representative of the Inter–Jurisdictional Food Service Manager Program Committee;

(ix) one representative of the Maryland Association of County Health Officers who is not from a jurisdiction with a certified food service manager program; and

(x) one representative of the Maryland Conference of Local Environmental Health Directors.

(c) The President of the Senate and Speaker of the House jointly shall designate the chair of the Task Force.

(d) The Task Force may form subcommittees from among its members.

(e) The Department of Health and Mental Hygiene shall provide staff for the Task Force.

(f) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Task Force shall:

(1) study and make recommendations regarding:

(i) food allergy awareness and food allergy training for food service facilities in the State;

(ii) food safety training for food service facilities in the State; and

(iii) the use of systems for grading and classifying health inspection results for food service facilities in the State;

(2) review food safety efforts at the State and local level, including:

(i) the frequency of food service facility inspections, the most common violations, and the reasons for closures;

(ii) the number of food–borne illness cases that have been linked to food service facilities; and

(iii) the impact of local food service manager certification programs;

(3) study:

(i) the most common food allergies and issues related to food preparation and cross–contamination in food service facilities;

(ii) existing and planned food allergy training material, programs, and certifications;

(iii) food allergy awareness and training mandates for food service facilities in other states;

(iv) legal issues related to food allergens, including potential civil liability, compliance with the Americans with Disabilities Act, and negligence issues;

(v) the use of grading and classifying health inspection results for food service facilities by other jurisdictions;

(vi) the frequency of food–borne illness cases linked to food service facilities in jurisdictions that grade and classify health inspection results compared to similar jurisdictions that do not use grading and classification systems;

(vii) the costs of implementing and administering grading and classifying systems, how the costs of these systems are paid for, and any cost–benefit analyses of these systems that have been completed;

(viii) the alternatives to grading and classifying health inspection results, including the State's existing pass–fail inspection system, online posting of health inspection results, a system that informs consumers regarding the frequency of health inspections at food service facilities, and any other options the Task Force considers appropriate; and

(ix) any other issues the Task Force considers appropriate; and

(4) study and evaluate:

(i) mandated food service manager certification and mandated food handler training options; and

(ii) online food safety training programs for certification and recertification.

(h) On or before January 1, 2014, the Task Force shall report its findings and recommendations related to food allergy awareness and training, food safety training, and the use of grading and classifying health inspections results for food service facilities to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2013.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2013. Section 2 of this Act shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2014, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 252

(House Bill 9)

AN ACT concerning

Health – Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading – Posting Requirement and Task Force

FOR the purpose of requiring certain food establishments to display, in a certain manner and location, a certain poster relating to food allergies ~~and to include on a menu provided by the food establishment a notice to a customer that the customer should inform the server of any food allergies~~; requiring, on or before a certain date, the Department of Health and Mental Hygiene, in consultation with certain entities, to create and make available on its Web site a certain poster ~~and certain notice; requiring certain individuals to view a certain video and be knowledgeable about certain issues concerning food allergies and food preparation under certain circumstances; requiring the Department, in consultation with certain entities, to develop a certain program for food establishments to be designated as food allergy friendly, issue certain guidelines and requirements regarding the program, and maintain and make available to the public on its Web site a certain list of food establishments; authorizing the Department to adopt regulations to carry out certain provisions of this Act; requiring the Governor to annually proclaim a certain week as Food Allergy Awareness Week; requiring the Department, in consultation with certain entities, to report to certain committees of the General Assembly on or before a certain date regarding the impact of certain provisions of this Act; defining a certain term; and generally relating to food allergy awareness~~; establishing a Task Force to Study Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading; providing for the membership and chair of the Task Force; authorizing the Task Force to form subcommittees from among its members; requiring the Department of Health and Mental Hygiene to provide staff for the Task Force; providing that a member of the Task Force may not receive certain compensation but is entitled to certain reimbursement; providing for the duties of the Task Force; requiring the Task Force to report certain findings and recommendations, on or before a certain date, to the Governor and certain committees of the General Assembly; providing for the effective dates of this Act; providing for the termination of certain provisions of this Act; and generally relating to food allergy awareness, food safety, and food service facility letter grading.

BY adding to
Article – Health – General
Section 21–330.2
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

~~BY adding to~~
~~Article – State Government~~
~~Section 13–601 to be under the new subtitle "Subtitle 6. Commemorative Weeks"~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

21–330.2.

(A) ~~(1)~~ BEGINNING MARCH 1, 2014, A FOOD ESTABLISHMENT SHALL~~:~~

~~(I)~~ ~~DISPLAY~~ DISPLAY PROMINENTLY IN THE STAFF AREA OF THE FOOD ESTABLISHMENT A POSTER RELATING TO FOOD ALLERGY AWARENESS THAT INCLUDES INFORMATION REGARDING THE RISK OF AN ALLERGIC REACTION~~; AND~~

~~(II) INCLUDE ON A MENU PROVIDED BY THE FOOD ESTABLISHMENT A NOTICE TO A CUSTOMER THAT THE CUSTOMER SHOULD INFORM THE SERVER OF ANY FOOD ALLERGIES~~.

~~(2)~~ (B) ON OR BEFORE JANUARY 1, 2014, THE DEPARTMENT, IN CONSULTATION WITH THE RESTAURANT ASSOCIATION OF MARYLAND AND ~~THE FOOD ALLERGY & ANAPHYLAXIS NETWORK~~ FOOD ALLERGY RESEARCH AND EDUCATION, SHALL CREATE AND MAKE AVAILABLE ON ITS WEB SITE~~:~~

~~(I)~~ ~~THE~~ THE POSTER REQUIRED TO BE DISPLAYED UNDER ~~PARAGRAPH (1)(I) OF THIS~~ SUBSECTION (A) OF THIS SECTION.~~; AND~~

~~(II) THE NOTICE REQUIRED TO BE INCLUDED ON A MENU UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.~~

~~(B) (1) IN THIS SUBSECTION, "PERSON IN CHARGE" MEANS THE INDIVIDUAL WHO IS:~~

~~(I) PRESENT AT A FOOD ESTABLISHMENT; AND~~

~~(II) RESPONSIBLE FOR THE OPERATION OF THE FOOD ESTABLISHMENT.~~

~~(2) IN ORDER TO BE DESIGNATED THE PERSON IN CHARGE BY A FOOD ESTABLISHMENT, AN INDIVIDUAL SHALL:~~

~~(I) VIEW A VIDEO CONCERNING FOOD ALLERGIES THAT HAS BEEN APPROVED BY THE DEPARTMENT, IN CONSULTATION WITH THE RESTAURANT ASSOCIATION OF MARYLAND AND THE FOOD ALLERGY & ANAPHYLAXIS NETWORK; AND~~

~~(II) BE KNOWLEDGEABLE ABOUT RELEVANT ISSUES CONCERNING FOOD ALLERGIES AND FOOD PREPARATION.~~

~~(C) THE DEPARTMENT SHALL:~~

~~(1) DEVELOP, IN CONSULTATION WITH THE RESTAURANT ASSOCIATION OF MARYLAND AND THE FOOD ALLERGY & ANAPHYLAXIS NETWORK, A VOLUNTARY PROGRAM FOR FOOD ESTABLISHMENTS TO BE DESIGNATED AS FOOD ALLERGY FRIENDLY;~~

~~(2) ISSUE GUIDELINES AND REQUIREMENTS THAT A FOOD ESTABLISHMENT MUST MEET TO BE DESIGNATED AS FOOD ALLERGY FRIENDLY, INCLUDING A REQUIREMENT TO MAINTAIN ON THE PREMISES OF THE FOOD ESTABLISHMENT AND MAKE AVAILABLE TO THE PUBLIC A MASTER LIST OF ALL INGREDIENTS USED IN THE PREPARATION OF EACH FOOD ITEM AVAILABLE FOR PUBLIC CONSUMPTION; AND~~

~~(3) MAINTAIN AND MAKE AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE A LIST OF FOOD ESTABLISHMENTS THAT HAVE BEEN DESIGNATED AS FOOD ALLERGY FRIENDLY.~~

~~(D) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

~~**Article – State Government**~~

~~**SUBTITLE 6. COMMEMORATIVE WEEKS.**~~

~~**13–601.**~~

~~THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND FULL WEEK OF MAY AS FOOD ALLERGY AWARENESS WEEK.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 30, 2015, the Department of Health and Mental Hygiene, in consultation with the Restaurant Association of Maryland and the Food Allergy & Anaphylaxis Network, shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the impact of § 21–330.2 of the Health – General Article, as enacted by Section 1 of this Act, including the compliance rate of food establishments.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force to Study Food Allergy Awareness, Food Safety, and Food Service Facility Letter Grading.

(b) The Task Force consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) one representative of the Department of Health and Mental Hygiene, appointed by the Secretary of Health and Mental Hygiene;

(4) the President of the Baltimore City Council, or the President's designee;

(5) the Prince George's County Health Officer, or the Health Officer's designee; and

(6) the following members, appointed by the Governor:

(i) one representative of Food Allergy Research and Education;

(ii) one consumer with a food allergy;

(iii) one parent of a child with a food allergy;

(iv) one representative of the Restaurant Association of Maryland;

(v) one representative of the National Restaurant Association;

(vi) one representative of the Maryland Retailers Association;

(vii) one representative of the Maryland Hotel and Lodging Association;

(viii) one representative of the Inter–Jurisdictional Food Service Manager Program Committee;

(ix) one representative of the Maryland Association of County Health Officers who is not from a jurisdiction with a certified food service manager program; and

(x) one representative of the Maryland Conference of Local Environmental Health Directors.

(c) The President of the Senate and Speaker of the House jointly shall designate the chair of the Task Force.

(d) The Task Force may form subcommittees from among its members.

(e) The Department of Health and Mental Hygiene shall provide staff for the Task Force.

(f) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Task Force shall:

(1) study and make recommendations regarding:

(i) food allergy awareness and food allergy training for food service facilities in the State;

(ii) food safety training for food service facilities in the State; and

(iii) the use of systems for grading and classifying health inspection results for food service facilities in the State;

(2) review food safety efforts at the State and local level, including:

(i) the frequency of food service facility inspections, the most common violations, and the reasons for closures;

(ii) the number of food–borne illness cases that have been linked to food service facilities; and

(iii) the impact of local food service manager certification programs;

(3) study:

(i) the most common food allergies and issues related to food preparation and cross–contamination in food service facilities;

(ii) existing and planned food allergy training material, programs, and certifications;

(iii) food allergy awareness and training mandates for food service facilities in other states;

(iv) legal issues related to food allergens, including potential civil liability, compliance with the Americans with Disabilities Act, and negligence issues;

(v) the use of grading and classifying health inspection results for food service facilities by other jurisdictions;

(vi) the frequency of food–borne illness cases linked to food service facilities in jurisdictions that grade and classify health inspection results compared to similar jurisdictions that do not use grading and classification systems;

(vii) the costs of implementing and administering grading and classifying systems, how the costs of these systems are paid for, and any cost–benefit analyses of these systems that have been completed;

(viii) the alternatives to grading and classifying health inspection results, including the State's existing pass–fail inspection system, online posting of health inspection results, a system that informs consumers regarding the frequency of health inspections at food service facilities, and any other options the Task Force considers appropriate; and

(ix) any other issues the Task Force considers appropriate; and

(4) study and evaluate:

(i) mandated food service manager certification and mandated food handler training options; and

(ii) online food safety training programs for certification and recertification.

(h) On or before January 1, 2014, the Task Force shall report its findings and recommendations related to food allergy awareness and training, food safety training, and the use of grading and classifying health inspections results for food service facilities to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2013.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2013. Section 2 of this Act shall

remain effective for a period of 1 year and 1 month and, at the end of June 30, 2014, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 253

(Senate Bill 392)

AN ACT concerning

Cecil County – Alcoholic Beverages – Refillable Containers

FOR the purpose of creating in Cecil County a refillable container license; authorizing the Cecil County Board of License Commissioners to issue the license to a holder of a Class A or Class B alcoholic beverages license; specifying that a holder of the license may sell draft beer for consumption off the licensed premises in a certain refillable container; requiring a refillable container to meet certain requirements; requiring an applicant for a license to complete a certain form and pay a certain fee; specifying the term of the license; requiring that receipts collected under the license be included in a certain calculation of average daily receipts; specifying the hours of sale for the license; allowing a holder of the license to refill only a refillable container that bears the identifying mark of the license holder; requiring the Board of License Commissioners to adopt certain regulations; and generally relating to the creation of a refillable container license in Cecil County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 7–101(l)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 7–101(l)(8)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

7–101.

(l) (1) This subsection applies only in Cecil County.

(8) (I) THERE IS A REFILLABLE CONTAINER LICENSE.

(II) THE BOARD MAY ISSUE A REFILLABLE CONTAINER LICENSE TO A HOLDER OF A CLASS A OR CLASS B ALCOHOLIC BEVERAGES LICENSE.

(III) SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, A REFILLABLE CONTAINER LICENSE ENTITLES THE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER WITH A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN ~~120~~ 128 OUNCES.

(IV) TO BE USED AS A REFILLABLE CONTAINER UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH, A CONTAINER SHALL:

1. BE SEALABLE;

2. BE BRANDED WITH AN IDENTIFYING MARK OF THE LICENSE HOLDER;

3. BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 27 C.F.R. 16.21;

4. DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND

5. BEAR A LABEL STATING THAT:

A. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND

B. THE CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.

(V) BEFORE THE BOARD ISSUES A REFILLABLE CONTAINER LICENSE TO AN APPLICANT, THE APPLICANT SHALL:

1. COMPLETE THE FORM THAT THE BOARD PROVIDES; AND

2. PAY AN ANNUAL LICENSE FEE OF $50.

(VI) THE TERM OF A REFILLABLE CONTAINER LICENSE ISSUED TO A SUCCESSFUL APPLICANT IS THE SAME AS THAT OF THE LICENSE THAT THE APPLICANT HOLDS.

(VII) RECEIPTS COLLECTED UNDER A REFILLABLE CONTAINER LICENSE ARE TO BE INCLUDED IN THE CALCULATION OF AVERAGE DAILY RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES UNDER § 11–508(B)(3) OF THIS ARTICLE.

(VIII) THE HOURS OF SALE FOR A REFILLABLE CONTAINER LICENSE BEGIN AND END AT THE SAME TIME AS THOSE FOR THE LICENSE ALREADY HELD BY THE PERSON TO WHICH THE REFILLABLE CONTAINER LICENSE IS ISSUED.

(IX) A LICENSE HOLDER MAY REFILL ONLY A REFILLABLE CONTAINER THAT BEARS THE IDENTIFYING MARK OF THE LICENSE HOLDER.

(X) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS PARAGRAPH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 254

(Senate Bill 400)

AN ACT concerning

Environmental Health Specialists – Licensure Examinations – Applicant Qualifications and Waiver

FOR the purpose of altering a certain educational qualification that an applicant for licensure as an environmental health specialist may meet to qualify to be examined under a certain provision of law; altering the circumstances under which the State Board of Environmental Health Specialists may waive licensure

examination requirements; altering the qualifications that an applicant must meet to qualify for a waiver of examination requirements under a certain provision of law; repealing a certain obsolete provision of law; and generally relating to licensure examinations for environmental health specialists.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 21–304(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 21–304(b) and 21–306
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

21–304.

(a) An applicant who otherwise qualifies for licensure is entitled to be examined as provided in this section.

(b) An applicant qualifies to take the examination if the applicant:

(1) (i) Has graduated from an accredited college or university with a baccalaureate degree in environmental science or environmental health; and

(ii) Has obtained 12 months of experience in an environmental health specialist–in–training program approved by the Board;

(2) (i) Has graduated from an accredited college or university with a baccalaureate degree in the physical, biological, or environmental sciences including:

1. A minimum of 60 semester credit hours or the equivalent quarter credit hours of physical, biological, and environmental sciences acceptable to the Board which includes at least one laboratory course in two of the following fields:

A. Chemistry;

B. Physics; and

C. Biology; and

2. A course in mathematics; and

(ii) Has obtained 12 months of experience in an environmental health specialist–in–training program approved by the Board;

(3) (i) Has graduated from an accredited college or university with a baccalaureate degree that includes:

1. 30 semester credit hours or the equivalent quarter credit hours in the physical, biological, and environmental sciences acceptable to the Board, which includes at least one laboratory course in two of the following fields:

A. Chemistry;

B. Physics; and

C. Biology; and

2. A course in mathematics; and

(ii) Has obtained 24 months of experience in an environmental health specialist–in–training program approved by the Board; or

(4) Has graduated from an accredited college or university with a master's degree in public or environmental health science that includes:

(i) 30 semester credit hours or 45 quarter credit hours of physical, biological, or environmental sciences acceptable to the Board **AND OBTAINED AT THE BACCALAUREATE OR MASTER'S LEVEL**, which includes at least one laboratory course in two of the following fields:

1. Chemistry;

2. Physics; and

3. Biology;

(ii) A course in mathematics; and

(iii) 3 months of internship approved by the Board if not previously completed.

21–306.

(a) Subject to **[**the provisions**]** **SUBSECTION (B)** of this section, the Board may **[**make a reciprocal agreement with any other state to**]** waive any examination requirement of this title for an applicant who is licensed **OR REGISTERED** as an environmental health specialist or its equivalent in **[**that**]** **ANOTHER** state.

(b) **[**An agreement made under this section may allow the**]** **THE** Board **[**to**]** **MAY** grant a waiver only if the applicant:

(1) Pays the application fee required by § 21–302 of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; **[**and**]**

(ii) Became licensed **OR REGISTERED TO PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST OR ITS EQUIVALENT** in the other state after passing in that **[**or any other**]** state an examination **[**that is similar to the examination for which the applicant is seeking the waiver**]** **AS A CONDITION OF LICENSURE OR REGISTRATION; AND**

(III) HAS PERFORMED AT LEAST 24 MONTHS OF COMPENSATED WORK AS AN ENVIRONMENTAL HEALTH SPECIALIST OR ITS EQUIVALENT IN THE OTHER STATE.

[(c) An agreement may be made with another state under this section only if, under the agreement, the other state waives the examination of licensed environmental health specialists of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 255

(Senate Bill 401)

AN ACT concerning

Pharmacists – Administration of Vaccinations – Expanded Authority and Reporting Requirements

FOR the purpose of altering the authority of pharmacists to administer certain vaccinations to certain individuals; authorizing a pharmacist to administer certain vaccinations to an individual in a certain age group who has a prescription or to an adult under a written protocol that meets certain requirements; altering a certain vaccination reporting requirement; requiring a pharmacist, under certain circumstances, to document at least one effort to inform certain health care practitioners or other sources of care that a vaccination has been administered; repealing a requirement that the State Board of Pharmacy, the State Board of Physicians, and the State Board of Nursing meet periodically and take certain actions relating to certain regulations; requiring the Secretary of Health and Mental Hygiene, in consultation with a workgroup of stakeholders, to study the feasibility and desirability of requiring certain health care providers who administer vaccinations to report the vaccinations to the ImmuNet Program; requiring the study to take certain factors into account; requiring the Secretary to submit the findings and recommendations of the study to certain legislative committees on or before a certain date; making certain conforming changes; ~~providing for the effective dates of this Act;~~ and generally relating to the authority of pharmacists to administer vaccinations and requiring reporting of vaccinations.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–508
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Health Occupations~~
~~Section 12–508(a)(4)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~
~~(As enacted by Section 1 of this Act)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

12–508.

(a) (1) **A** pharmacist may administer an influenza vaccination to an individual who is at least 9 years old, in accordance with regulations adopted by the Board, in consultation with the Department.

[(2) A pharmacist may administer a vaccination for pneumococcal pneumonia or herpes zoster, or any vaccination that has been determined by the

Board, with the agreement of the Board of Physicians and the Board of Nursing to be in the best health interests of the community, to an individual if:

(i) The individual is an adult;

(ii) The individual has a prescription from a physician;

(iii) The pharmacist informs the prescribing physician that the vaccination has been administered;

(iv) If the prescribing physician is not the patient's primary care physician, the pharmacist has made a reasonable effort to inform the patient's primary care physician that the vaccination has been administered; and

(v) The vaccination is administered in accordance with regulations adopted under subsection (c)(1) of this section.**]**

(2) A PHARMACIST MAY ADMINISTER A VACCINATION THAT IS LISTED IN THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S RECOMMENDED IMMUNIZATION SCHEDULE TO AN INDIVIDUAL WHO:

(I) IS AT LEAST 11 YEARS OLD BUT UNDER THE AGE OF 18 YEARS; AND

(II) HAS A PRESCRIPTION FROM AN AUTHORIZED PRESCRIBER.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PHARMACIST MAY ADMINISTER TO AN ADULT A VACCINATION THAT IS:

1. LISTED IN THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S RECOMMENDED IMMUNIZATION SCHEDULE; OR

2. RECOMMENDED IN THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S HEALTH INFORMATION FOR INTERNATIONAL TRAVEL.

(II) A PHARMACIST SHALL ADMINISTER A VACCINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH UNDER A WRITTEN PROTOCOL THAT:

1. IS VACCINE SPECIFIC; AND

2. MEETS CRITERIA ESTABLISHED BY THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, THE BOARD OF PHYSICIANS, AND THE BOARD OF NURSING, IN REGULATION.

[(3)**] (4)** A pharmacist shall **[**report**]:**

(I) REPORT ALL VACCINATIONS ADMINISTERED BY THE PHARMACIST to the **[**Maryland Immunization Registry an influenza vaccination administered by the pharmacist to individuals who are from 9 to 18 years of age**] IMMUNET PROGRAM ESTABLISHED UNDER § 18–109 OF THE HEALTH – GENERAL ARTICLE;**

(II) IF THE VACCINATION HAS BEEN ADMINISTERED IN ACCORDANCE WITH A PRESCRIPTION, DOCUMENT AT LEAST ONE EFFORT TO INFORM THE INDIVIDUAL'S AUTHORIZED PRESCRIBER THAT THE VACCINATION HAS BEEN ADMINISTERED; AND

(III) ~~IF~~ FOR A VACCINATION ADMINISTERED UNDER PARAGRAPH (2) OR (3) OF THIS SUBSECTION, IF THE AUTHORIZED PRESCRIBER IS NOT THE INDIVIDUAL'S PRIMARY CARE PROVIDER OR IF THE VACCINATION HAS NOT BEEN ADMINISTERED IN ACCORDANCE WITH A PRESCRIPTION, ~~MAKE A REASONABLE~~ DOCUMENT AT LEAST ONE EFFORT TO INFORM THE INDIVIDUAL'S PRIMARY CARE PROVIDER OR OTHER USUAL SOURCE OF CARE THAT THE VACCINATION HAS BEEN ADMINISTERED.

(b) The Board shall **[**set**]:**

(1) SET reasonable fees for the administration of vaccinations **[**in accordance with subsection (a) of**] UNDER** this section**[**.

(c) (1) The Board, the Board of Physicians, and the Board of Nursing shall meet at least annually to jointly develop, adopt, and review regulations to provide for patient safety and to implement subsection (a)(2) of this section.

(2) The regulations adopted under subsection (a)(1) of this section and paragraph (1) of this subsection shall**]; AND**

(2) ADOPT REGULATIONS THAT require a pharmacist to submit a registration form to the Board that includes verification that the pharmacist:

(i) Has successfully completed a certification course approved by the Board that included instruction in the guidelines and recommendations of the Centers for Disease Control and Prevention regarding vaccinations; and

(ii) Is certified in basic cardiopulmonary resuscitation and obtained the certification through in–person classroom instruction.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Health Occupations**~~

~~12–508.~~

~~(a) (4) A pharmacist shall~~**[**~~:~~

~~(i) Report~~**] REPORT** ~~all vaccinations administered by the pharmacist to the ImmuNet Program established under § 18–109 of the Health – General Article~~**[**~~;~~

~~(ii) If the vaccination has been administered in accordance with a prescription, inform the individual's authorized prescriber that the vaccination has been administered; and~~

~~(iii) If the authorized prescriber is not the individual's primary care provider or if the vaccination has not been administered in accordance with a prescription, make a reasonable effort to inform the individual's primary care provider that the vaccination has been administered~~**]**~~.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of Health and Mental Hygiene shall study the feasibility and desirability of requiring all health care providers who administer vaccinations to report the vaccinations to the ImmuNet Program.

(b) In carrying out the study, the Secretary shall consult with a workgroup of stakeholders, including representatives of health care providers, pharmacies, health insurance carriers, the State Board of Physicians, the State Board of Nursing, and the State Board of Pharmacy.

(c) The study shall take into account:

(1) the costs and benefits of comprehensive reporting; and

(2) the time frame in which the ImmuNet Program will become accessible to all health care providers who administer vaccinations.

(d) On or before January 1, 2014, the Secretary shall submit the findings and recommendations of the study, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2015.~~

SECTION ~~5.~~ 3. AND BE IT FURTHER ENACTED, That~~, except as provided in Section 4 of this Act,~~ this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 256

(House Bill 179)

AN ACT concerning

Pharmacists – Administration of Vaccinations – Expanded Authority and Reporting Requirements

FOR the purpose of altering the authority of pharmacists to administer certain vaccinations to certain individuals; authorizing a pharmacist to administer certain vaccinations to an individual in a certain age group who has a prescription or to an adult under a written protocol that meets certain requirements; altering a certain vaccination reporting requirement; requiring a pharmacist, under certain circumstances, to document at least one effort to inform certain health care practitioners or other sources of care that a vaccination has been administered; repealing a requirement that the State Board of Pharmacy, the State Board of Physicians, and the State Board of Nursing meet periodically and take certain actions relating to certain regulations; requiring the Secretary of Health and Mental Hygiene, in consultation with a workgroup of stakeholders, to study the feasibility and desirability of requiring certain health care providers who administer vaccinations to report the vaccinations to the ImmuNet Program; requiring the study to take certain factors into account; requiring the Secretary to submit the findings and recommendations of the study to certain legislative committees on or before a certain date; making certain conforming changes; ~~providing for the effective dates of this Act;~~ and generally relating to the authority of pharmacists to administer vaccinations and requiring reporting of vaccinations.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–508
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Health Occupations~~
~~Section 12–508(a)(4)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~
~~(As enacted by Section 1 of this Act)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

12–508.

(a) (1) A pharmacist may administer an influenza vaccination to an individual who is at least 9 years old, in accordance with regulations adopted by the Board, in consultation with the Department.

[(2) A pharmacist may administer a vaccination for pneumococcal pneumonia or herpes zoster, or any vaccination that has been determined by the Board, with the agreement of the Board of Physicians and the Board of Nursing to be in the best health interests of the community, to an individual if:

(i) The individual is an adult;

(ii) The individual has a prescription from a physician;

(iii) The pharmacist informs the prescribing physician that the vaccination has been administered;

(iv) If the prescribing physician is not the patient's primary care physician, the pharmacist has made a reasonable effort to inform the patient's primary care physician that the vaccination has been administered; and

(v) The vaccination is administered in accordance with regulations adopted under subsection (c)(1) of this section.**]**

(2) A PHARMACIST MAY ADMINISTER A VACCINATION THAT IS LISTED IN THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S RECOMMENDED IMMUNIZATION SCHEDULE TO AN INDIVIDUAL WHO:

(I) IS AT LEAST 11 YEARS OLD BUT UNDER THE AGE OF 18 YEARS; AND

(II) HAS A PRESCRIPTION FROM AN AUTHORIZED PRESCRIBER.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PHARMACIST MAY ADMINISTER TO AN ADULT A VACCINATION THAT IS:

1. LISTED IN THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S RECOMMENDED IMMUNIZATION SCHEDULE; OR

2. RECOMMENDED IN THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S HEALTH INFORMATION FOR INTERNATIONAL TRAVEL.

(II) A PHARMACIST SHALL ADMINISTER A VACCINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH UNDER A WRITTEN PROTOCOL THAT:

1. IS VACCINE SPECIFIC; AND

2. MEETS CRITERIA ESTABLISHED BY THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, THE BOARD OF PHYSICIANS, AND THE BOARD OF NURSING, IN REGULATION.

[(3)**] (4)** A pharmacist shall **[**report**]:**

(I) REPORT ALL VACCINATIONS ADMINISTERED BY THE PHARMACIST to the **[**Maryland Immunization Registry an influenza vaccination administered by the pharmacist to individuals who are from 9 to 18 years of age**] IMMUNET PROGRAM ESTABLISHED UNDER § 18–109 OF THE HEALTH – GENERAL ARTICLE;**

(II) IF THE VACCINATION HAS BEEN ADMINISTERED IN ACCORDANCE WITH A PRESCRIPTION, DOCUMENT AT LEAST ONE EFFORT TO INFORM THE INDIVIDUAL'S AUTHORIZED PRESCRIBER THAT THE VACCINATION HAS BEEN ADMINISTERED; AND

(III) ~~IF~~ FOR A VACCINATION ADMINISTERED UNDER PARAGRAPH (2) OR (3) OF THIS SUBSECTION, IF THE AUTHORIZED PRESCRIBER IS NOT THE INDIVIDUAL'S PRIMARY CARE PROVIDER OR IF THE VACCINATION HAS NOT BEEN ADMINISTERED IN ACCORDANCE WITH A PRESCRIPTION, ~~MAKE A REASONABLE~~ DOCUMENT AT LEAST ONE EFFORT TO INFORM THE INDIVIDUAL'S PRIMARY CARE PROVIDER OR OTHER USUAL SOURCE OF CARE THAT THE VACCINATION HAS BEEN ADMINISTERED.

(b) The Board shall **[**set**]:**

(1) SET reasonable fees for the administration of vaccinations **[**in accordance with subsection (a) of**]** **UNDER** this section**[**.

(c) (1) The Board, the Board of Physicians, and the Board of Nursing shall meet at least annually to jointly develop, adopt, and review regulations to provide for patient safety and to implement subsection (a)(2) of this section.

(2) The regulations adopted under subsection (a)(1) of this section and paragraph (1) of this subsection shall**]; AND**

(2) ADOPT REGULATIONS THAT require a pharmacist to submit a registration form to the Board that includes verification that the pharmacist:

(i) Has successfully completed a certification course approved by the Board that included instruction in the guidelines and recommendations of the Centers for Disease Control and Prevention regarding vaccinations; and

(ii) Is certified in basic cardiopulmonary resuscitation and obtained the certification through in–person classroom instruction.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Health Occupations**~~

~~12–508.~~

~~(a) (4) A pharmacist shall~~**[**~~:~~

~~(i) Report~~**]** ~~**REPORT** all vaccinations administered by the pharmacist to the ImmuNet Program established under § 18–109 of the Health – General Article~~**[**~~;~~

~~(ii) If the vaccination has been administered in accordance with a prescription, inform the individual's authorized prescriber that the vaccination has been administered; and~~

~~(iii) If the authorized prescriber is not the individual's primary care provider or if the vaccination has not been administered in accordance with a prescription, make a reasonable effort to inform the individual's primary care provider that the vaccination has been administered~~**]**~~.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of Health and Mental Hygiene shall study the feasibility and desirability of requiring all health care providers who administer vaccinations to report the vaccinations to the ImmuNet Program.

(b) In carrying out the study, the Secretary shall consult with a workgroup of stakeholders, including representatives of health care providers, pharmacies, health insurance carriers, the State Board of Physicians, the State Board of Nursing, and the State Board of Pharmacy.

(c) The study shall take into account:

(1) the costs and benefits of comprehensive reporting; and

(2) the time frame in which the ImmuNet Program will become accessible to all health care providers who administer vaccinations.

(d) On or before January 1, 2014, the Secretary shall submit the findings and recommendations of the study, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2015.~~

SECTION ~~5.~~ 3. AND BE IT FURTHER ENACTED, That~~, except as provided in Section 4 of this Act,~~ this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 257

(Senate Bill 404)

AN ACT concerning

Income Tax – Subtraction Modification – Enhanced Agricultural Management Equipment

FOR the purpose of providing certain subtraction modifications under the Maryland individual and corporate income tax for certain expenses incurred to buy and install certain agricultural equipment under certain circumstances; consolidating certain provisions of law that provide certain Maryland income tax subtraction modifications for certain expenses incurred to buy and install certain agricultural equipment under certain circumstances; providing for the application of this Act; and generally relating to certain Maryland income tax

subtraction modifications for certain expenses incurred to buy and install certain agricultural equipment under certain circumstances.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–208(d) and 10–308(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article – Tax – General
Section 10–208(m)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

10–208.

(d) (1) In this subsection**[**, "conservation tillage equipment"**]**:

(i) **"ENHANCED AGRICULTURAL MANAGEMENT EQUIPMENT"** means:

1. a planter or drill that:

A. is commonly known as a "no–till" planter or drill; and

B. is designed to minimize the disturbance of the soil in planting crops;

2. liquid manure soil injection equipment that is designed to inject manure into the soil to reduce nutrient runoff; **[**or**]**

3. a deep no–till ripper that does not invert the soil profile and is used to address compaction in high residue cropping systems;

4. POULTRY OR LIVESTOCK MANURE SPREADING EQUIPMENT USED BY A FARM OWNER OR TENANT ON FARMLAND IN ACCORDANCE WITH A NUTRIENT MANAGEMENT PLAN PREPARED BY AN INDIVIDUAL LICENSED BY THE SECRETARY OF AGRICULTURE IN ACCORDANCE WITH TITLE 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE IF THE MANURE SPREADING EQUIPMENT IS USED:

A. TO SPREAD POULTRY MANURE AND BEDDING FROM NORMAL POULTRY PRODUCTION WITH A CAPABILITY OF BEING CALIBRATED TO 1 TON PER ACRE; OR

B. TO APPLY SOLID OR LIQUID LIVESTOCK WASTE;

5. VERTICAL TILLAGE EQUIPMENT USED TO INCORPORATE LIVESTOCK MANURE OR POULTRY LITTER INTO THE SOIL;

6. A GLOBAL POSITIONING SYSTEM DEVICE USED FOR MANAGEMENT OF AGRICULTURAL NUTRIENT APPLICATIONS; AND

7. AN INTEGRATED OPTICAL SENSING AND NUTRIENT APPLICATION SYSTEM THAT MEASURES CROP STATUS AND APPLIES THE CROP'S NITROGEN REQUIREMENTS AT VARIABLE RATES BASED ON PREDICTED IN–SEASON YIELD POTENTIAL FOR THE CROP AND THE PREDICTED RESPONSIVENESS OF THE CROP TO ADDITIONAL NITROGEN; and

(ii) **"ENHANCED AGRICULTURAL MANAGEMENT EQUIPMENT"** includes **[**a planter or drill or liquid manure soil injection**]** equipment that attaches to or is pulled by equipment **LISTED IN ITEM (I) OF THIS PARAGRAPH**.

(2) **[**The**] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** subtraction under subsection (a) of this section includes 100% of the expenses that a taxpayer incurs to buy and install **[**conservation tillage**] ENHANCED AGRICULTURAL MANAGEMENT** equipment if:

(i) the equipment has a useful life of at least 4 years;

(ii) the taxpayer:

1. bought the equipment:

A. after December 31, 1985, if the equipment is a planter or drill;

B. after December 31, 1989, if the equipment is liquid manure soil injection equipment; **[**or**]**

C. AFTER DECEMBER 31, 1997, IF THE EQUIPMENT IS POULTRY OR LIVESTOCK MANURE SPREADING EQUIPMENT;

[C.**] D.** after December 31, 2001, if the equipment is a deep no–till ripper that does not invert the soil profile; **OR**

E. AFTER DECEMBER 31, 2012, IF THE EQUIPMENT IS A GLOBAL POSITIONING SYSTEM DEVICE USED FOR MANAGEMENT OF AGRICULTURAL NUTRIENT APPLICATIONS OR AN INTEGRATED OPTICAL SENSING AND NUTRIENT APPLICATION SYSTEM;

2. owns the equipment for at least 3 years after the taxable year in which the subtraction is made; and

3. uses the equipment in agricultural production; and

(iii) for liquid manure soil injection equipment, the equipment is:

1. used on land upon which farm products, as defined under § 10–601 of the Agriculture Article, are raised; and

2. not used to inject sludge into the soil.

(3) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES 50% OF THE EXPENSES THAT A TAXPAYER INCURS TO BUY AND INSTALL ENHANCED AGRICULTURAL MANAGEMENT EQUIPMENT THAT IS VERTICAL TILLAGE EQUIPMENT USED TO INCORPORATE LIVESTOCK MANURE OR POULTRY LITTER INTO THE SOIL IF:

(I) THE EQUIPMENT HAS A USEFUL LIFE OF AT LEAST 4 YEARS; AND

(II) THE TAXPAYER:

1. BOUGHT THE EQUIPMENT AFTER DECEMBER 31, 2012;

2. OWNS THE EQUIPMENT FOR AT LEAST 3 YEARS AFTER THE TAXABLE YEAR IN WHICH THE SUBTRACTION IS MADE; AND

3. USES THE EQUIPMENT IN AGRICULTURAL PRODUCTION.

[(3)**] (4)** To qualify for the subtraction under **[**paragraph (2)**] PARAGRAPHS (2) AND (3)** of this subsection, a taxpayer shall file a statement from the Department of Agriculture certifying compliance with the requirements of this section.

[(4)**] (5)** If the subtraction allowed under **[**paragraph (2)**]** **PARAGRAPHS (2) AND (3)** of this subsection exceeds the Maryland taxable income that is computed without the modification allowed under this subsection and the subtraction is not used for the taxable year, the excess may be carried over to succeeding taxable years, not to exceed 5, until the full amount of the subtraction is used.

[(m) (1) In this subsection, "poultry or livestock manure spreading equipment" means equipment that is used by a farm owner or tenant on farmland in accordance with a nutrient management plan prepared by an individual licensed by the Secretary of Agriculture in accordance with Title 8, Subtitle 8 of the Agriculture Article if the manure spreading equipment is used:

(i) to spread poultry manure and bedding from normal poultry production with a capability of being calibrated to 1.0 ton per acre; or

(ii) to apply solid or liquid livestock waste.

(2) The subtraction under subsection (a) of this section includes 100% of the expense that a taxpayer incurs to buy poultry or livestock manure spreading equipment if the taxpayer:

(i) purchased the spreading equipment after December 31, 1997; and

(ii) owns the spreading equipment for at least 3 years after the taxable year in which the subtraction is made.

(3) To qualify for the subtraction under paragraph (2) of this subsection, a taxpayer shall file a statement from the Department of Agriculture certifying compliance with the requirements of paragraph (2) of this subsection.

(4) If the subtraction allowed under paragraph (2) of this subsection exceeds the Maryland taxable income that is computed without the modification allowed under this subsection and the subtraction is not used for the taxable year, the excess may be carried over to succeeding taxable years, not to exceed 5, until the full amount of the subtraction is used.**]**

10–308.

(b) The subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for an individual under:

(1) § 10–208(d) of this title (**[**Conservation tillage**]** **ENHANCED AGRICULTURAL MANAGEMENT** equipment expenses);

(2) § 10–208(i) of this title (Reforestation or timber stand expenses);

(3) § 10–208(k) of this title (Wage expenses for targeted jobs); **AND**

[(4) § 10–208(m) of this title (Poultry or livestock manure spreading equipment); and**]**

[(5)**] (4)** § 10–208(p) of this title (Elevator handrails in health care facilities).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012.

Approved by the Governor, May 2, 2013.

Chapter 258

(House Bill 408)

AN ACT concerning

Income Tax – Subtraction Modification – Enhanced Agricultural Management Equipment

FOR the purpose of providing certain subtraction modifications under the Maryland individual and corporate income tax for certain expenses incurred to buy and install certain agricultural equipment under certain circumstances; consolidating certain provisions of law that provide certain Maryland income tax subtraction modifications for certain expenses incurred to buy and install certain agricultural equipment under certain circumstances; providing for the application of this Act; and generally relating to certain Maryland income tax subtraction modifications for certain expenses incurred to buy and install certain agricultural equipment under certain circumstances.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–208(d) and 10–308(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article – Tax – General
Section 10–208(m)

Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

10–208.

(d) (1) In this subsection**[**, "conservation tillage equipment"**]**:

(i) **"ENHANCED AGRICULTURAL MANAGEMENT EQUIPMENT"** means:

1. a planter or drill that:

A. is commonly known as a "no–till" planter or drill; and

B. is designed to minimize the disturbance of the soil in planting crops;

2. liquid manure soil injection equipment that is designed to inject manure into the soil to reduce nutrient runoff; **[**or**]**

3. a deep no–till ripper that does not invert the soil profile and is used to address compaction in high residue cropping systems;

4. POULTRY OR LIVESTOCK MANURE SPREADING EQUIPMENT USED BY A FARM OWNER OR TENANT ON FARMLAND IN ACCORDANCE WITH A NUTRIENT MANAGEMENT PLAN PREPARED BY AN INDIVIDUAL LICENSED BY THE SECRETARY OF AGRICULTURE IN ACCORDANCE WITH TITLE 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE IF THE MANURE SPREADING EQUIPMENT IS USED:

A. TO SPREAD POULTRY MANURE AND BEDDING FROM NORMAL POULTRY PRODUCTION WITH A CAPABILITY OF BEING CALIBRATED TO 1 TON PER ACRE; OR

B. TO APPLY SOLID OR LIQUID LIVESTOCK WASTE;

5. VERTICAL TILLAGE EQUIPMENT USED TO INCORPORATE LIVESTOCK MANURE OR POULTRY LITTER INTO THE SOIL;

6. A GLOBAL POSITIONING SYSTEM DEVICE USED FOR MANAGEMENT OF AGRICULTURAL NUTRIENT APPLICATIONS; AND

7. AN INTEGRATED OPTICAL SENSING AND NUTRIENT APPLICATION SYSTEM THAT MEASURES CROP STATUS AND APPLIES THE CROP'S NITROGEN REQUIREMENTS AT VARIABLE RATES BASED ON PREDICTED IN–SEASON YIELD POTENTIAL FOR THE CROP AND THE PREDICTED RESPONSIVENESS OF THE CROP TO ADDITIONAL NITROGEN; and

(ii) **"ENHANCED AGRICULTURAL MANAGEMENT EQUIPMENT"** includes **[**a planter or drill or liquid manure soil injection**]** equipment that attaches to or is pulled by equipment **LISTED IN ITEM (I) OF THIS PARAGRAPH**.

(2) **[**The**] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** subtraction under subsection (a) of this section includes 100% of the expenses that a taxpayer incurs to buy and install **[**conservation tillage**] ENHANCED AGRICULTURAL MANAGEMENT** equipment if:

(i) the equipment has a useful life of at least 4 years;

(ii) the taxpayer:

1. bought the equipment:

A. after December 31, 1985, if the equipment is a planter or drill;

B. after December 31, 1989, if the equipment is liquid manure soil injection equipment; **[**or**]**

C. AFTER DECEMBER 31, 1997, IF THE EQUIPMENT IS POULTRY OR LIVESTOCK MANURE SPREADING EQUIPMENT;

[C.**] D.** after December 31, 2001, if the equipment is a deep no–till ripper that does not invert the soil profile; **OR**

E. AFTER DECEMBER 31, 2012, IF THE EQUIPMENT IS A GLOBAL POSITIONING SYSTEM DEVICE USED FOR MANAGEMENT OF AGRICULTURAL NUTRIENT APPLICATIONS OR AN INTEGRATED OPTICAL SENSING AND NUTRIENT APPLICATION SYSTEM;

2. owns the equipment for at least 3 years after the taxable year in which the subtraction is made; and

3. uses the equipment in agricultural production; and

(iii) for liquid manure soil injection equipment, the equipment is:

1. used on land upon which farm products, as defined under § 10–601 of the Agriculture Article, are raised; and

2. not used to inject sludge into the soil.

(3) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES 50% OF THE EXPENSES THAT A TAXPAYER INCURS TO BUY AND INSTALL ENHANCED AGRICULTURAL MANAGEMENT EQUIPMENT THAT IS VERTICAL TILLAGE EQUIPMENT USED TO INCORPORATE LIVESTOCK MANURE OR POULTRY LITTER INTO THE SOIL IF:

(I) THE EQUIPMENT HAS A USEFUL LIFE OF AT LEAST 4 YEARS; AND

(II) THE TAXPAYER:

1. BOUGHT THE EQUIPMENT AFTER DECEMBER 31, 2012;

2. OWNS THE EQUIPMENT FOR AT LEAST 3 YEARS AFTER THE TAXABLE YEAR IN WHICH THE SUBTRACTION IS MADE; AND

3. USES THE EQUIPMENT IN AGRICULTURAL PRODUCTION.

[(3)**] (4)** To qualify for the subtraction under **[**paragraph (2)**] PARAGRAPHS (2) AND (3)** of this subsection, a taxpayer shall file a statement from the Department of Agriculture certifying compliance with the requirements of this section.

[(4)**] (5)** If the subtraction allowed under **[**paragraph (2)**] PARAGRAPHS (2) AND (3)** of this subsection exceeds the Maryland taxable income that is computed without the modification allowed under this subsection and the subtraction is not used for the taxable year, the excess may be carried over to succeeding taxable years, not to exceed 5, until the full amount of the subtraction is used.

[(m) (1) In this subsection, "poultry or livestock manure spreading equipment" means equipment that is used by a farm owner or tenant on farmland in accordance with a nutrient management plan prepared by an individual licensed by the Secretary of Agriculture in accordance with Title 8, Subtitle 8 of the Agriculture Article if the manure spreading equipment is used:

(i) to spread poultry manure and bedding from normal poultry production with a capability of being calibrated to 1.0 ton per acre; or

(ii) to apply solid or liquid livestock waste.

(2) The subtraction under subsection (a) of this section includes 100% of the expense that a taxpayer incurs to buy poultry or livestock manure spreading equipment if the taxpayer:

(i) purchased the spreading equipment after December 31, 1997; and

(ii) owns the spreading equipment for at least 3 years after the taxable year in which the subtraction is made.

(3) To qualify for the subtraction under paragraph (2) of this subsection, a taxpayer shall file a statement from the Department of Agriculture certifying compliance with the requirements of paragraph (2) of this subsection.

(4) If the subtraction allowed under paragraph (2) of this subsection exceeds the Maryland taxable income that is computed without the modification allowed under this subsection and the subtraction is not used for the taxable year, the excess may be carried over to succeeding taxable years, not to exceed 5, until the full amount of the subtraction is used.**]**

10–308.

(b) The subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for an individual under:

(1) § 10–208(d) of this title (**[**Conservation tillage**]** **ENHANCED AGRICULTURAL MANAGEMENT** equipment expenses);

(2) § 10–208(i) of this title (Reforestation or timber stand expenses);

(3) § 10–208(k) of this title (Wage expenses for targeted jobs); **AND**

[(4) § 10–208(m) of this title (Poultry or livestock manure spreading equipment); and**]**

[(5)**]** **(4)** § 10–208(p) of this title (Elevator handrails in health care facilities).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012.

Approved by the Governor, May 2, 2013.

Chapter 259

(Senate Bill 414)

AN ACT concerning

Higher Education – Tuition Waiver – Foster Care Recipients

FOR the purpose of altering the definition of "foster care recipient", for purposes of a certain tuition waiver, to include certain individuals who are placed into guardianship or who are adopted out of an out–of–home placement by a certain guardianship family; providing that certain foster care recipients are eligible for a certain tuition waiver if the recipient is enrolled in a vocational certificate program at a public institution of higher education in the State, subject to certain conditions; and generally relating to tuition waivers at institutions of higher education for foster care recipients.

BY repealing and reenacting, with amendments,
Article – Education
Section 15–106.1
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

15–106.1.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Foster care recipient" means an individual who:

1. Was placed in an out–of–home placement by the Maryland Department of Human Resources; and

2. A. Resided in an out–of–home placement in the State at the time the individual graduated from high school or successfully completed a general equivalency development examination (GED); or

B. Resided in an out–of–home placement in the State on the individual's 13th birthday and was **PLACED INTO GUARDIANSHIP OR** adopted out of an out–of–home placement after the individual's 13th birthday.

(ii) "Foster care recipient" includes a younger sibling of an individual described in subparagraph (i) of this paragraph if the younger sibling is concurrently **PLACED INTO GUARDIANSHIP OR** adopted out of an out–of–home placement by the same **GUARDIANSHIP OR** adoptive family.

(3) "Out–of–home placement" has the meaning stated in § 5–501 of the Family Law Article.

(4) (i) "Tuition" means the charges imposed by a public institution of higher education for enrollment at the institution.

(ii) "Tuition" includes charges for registration and all fees required as a condition of enrollment.

(b) (1) **[**Except as provided in paragraph (2) of this subsection, a**] A** foster care recipient is exempt from paying **ANY** tuition at a public institution of higher education**, REGARDLESS OF THAT FOSTER CARE RECIPIENT'S RECEIPT OF ANY SCHOLARSHIP OR GRANT** if:

(i) The foster care recipient is enrolled at the institution on or before the date that the foster care recipient reaches the age of 25 years;

(ii) The foster care recipient is enrolled as a candidate for **A VOCATIONAL CERTIFICATE,** an associate's degree**,** or a bachelor's degree; and

(iii) The foster care recipient has filed for federal and State financial aid by March 1 each year.

(2) If a foster care recipient receives a scholarship or grant for postsecondary study and is enrolled before the recipient's 25th birthday as a candidate for **A VOCATIONAL CERTIFICATE,** an associate's degree**,** or bachelor's degree at a public institution of higher education, **THE SCHOLARSHIP OR GRANT MAY NOT BE APPLIED TO THE TUITION FOR** the foster care recipient **[**may not be required to pay the difference between the amount of the scholarship or grant and the amount of the tuition**]**.

(3) A foster care recipient who is exempt from tuition under this section continues to be exempt until the earlier of:

(i) 5 years after first enrolling as a candidate for ~~A VOCATIONAL CERTIFICATE,~~ an associate's degree~~,~~ or a bachelor's degree at a public institution of higher education in the State; or

(ii) The date that the foster care recipient is awarded a bachelor's degree.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 260

(House Bill 1012)

AN ACT concerning

Higher Education – Tuition Waiver – Foster Care Recipients

FOR the purpose of altering the definition of "foster care recipient", for purposes of a certain tuition waiver, to include certain individuals who are placed into guardianship or who are adopted out of an out–of–home placement by a certain guardianship family; providing that certain foster care recipients are eligible for a certain tuition waiver if the recipient is enrolled in a vocational certificate program at a public institution of higher education in the State, subject to certain conditions; and generally relating to tuition waivers at institutions of higher education for foster care recipients.

BY repealing and reenacting, with amendments,
Article – Education
Section 15–106.1
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

15–106.1.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Foster care recipient" means an individual who:

1. Was placed in an out–of–home placement by the Maryland Department of Human Resources; and

2. A. Resided in an out–of–home placement in the State at the time the individual graduated from high school or successfully completed a general equivalency development examination (GED); or

B. Resided in an out–of–home placement in the State on the individual's 13th birthday and was **PLACED INTO GUARDIANSHIP OR** adopted out of an out–of–home placement after the individual's 13th birthday.

(ii) "Foster care recipient" includes a younger sibling of an individual described in subparagraph (i) of this paragraph if the younger sibling is concurrently **PLACED INTO GUARDIANSHIP OR** adopted out of an out–of–home placement by the same **GUARDIANSHIP OR** adoptive family.

(3) "Out–of–home placement" has the meaning stated in § 5–501 of the Family Law Article.

(4) (i) "Tuition" means the charges imposed by a public institution of higher education for enrollment at the institution.

(ii) "Tuition" includes charges for registration and all fees required as a condition of enrollment.

(b) (1) **[**Except as provided in paragraph (2) of this subsection, a**] A** foster care recipient is exempt from paying **ANY** tuition at a public institution of higher education**, REGARDLESS OF THAT FOSTER CARE RECIPIENT'S RECEIPT OF ANY SCHOLARSHIP OR GRANT** if:

(i) The foster care recipient is enrolled at the institution on or before the date that the foster care recipient reaches the age of 25 years;

(ii) The foster care recipient is enrolled as a candidate for **A VOCATIONAL CERTIFICATE,** an associate's degree**,** or a bachelor's degree; and

(iii) The foster care recipient has filed for federal and State financial aid by March 1 each year.

(2) If a foster care recipient receives a scholarship or grant for postsecondary study and is enrolled before the recipient's 25th birthday as a candidate for **A VOCATIONAL CERTIFICATE,** an associate's degree**,** or bachelor's degree at a public institution of higher education, **THE SCHOLARSHIP OR GRANT MAY NOT BE APPLIED TO THE TUITION FOR** the foster care recipient **[**may not be required to pay

the difference between the amount of the scholarship or grant and the amount of the tuition**]**.

(3) A foster care recipient who is exempt from tuition under this section continues to be exempt until the earlier of:

(i) 5 years after first enrolling as a candidate for ~~A VOCATIONAL CERTIFICATE,~~ an associate's degree~~,~~ or a bachelor's degree at a public institution of higher education in the State; or

(ii) The date that the foster care recipient is awarded a bachelor's degree.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 261

(Senate Bill 422)

AN ACT concerning

Public School Employees – Collective Bargaining – Representation Fees

FOR the purpose of requiring public school employers in all jurisdictions of the State to negotiate with certain employee organizations designated as the exclusive representatives for the public school employees a requirement of a certain service or representation fee to be charged to nonmembers; exempting certain employees from certain requirements for paying service or representation fees; requiring certain public school employers and certain exclusive bargaining representatives to negotiate whether service or representation fees are applicable to certain employees under certain circumstances; providing for the ratification of certain contracts in certain counties by certain employees after a certain date; providing a certain exception and requirement for noncertificated employees whose religious beliefs are opposed to joining or financially supporting a collective bargaining organization; requiring the exclusive representative to establish and maintain a certain procedure; requiring the public school employer to deduct a certain fee from the earnings of nonmember employees in accordance with a certain schedule; excluding certain negotiated fees from certain requirements and further negotiations; making conforming changes; providing for the application of this Act; and generally relating to representation fees for public school employees.

BY repealing and reenacting, with amendments,
Article – Education
Section 6–407(c) and 6–504
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing
Article – Education
Section 6–407(d), (e), and (f)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 6–407(d), (e), and (f)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

6–407.

(c) (1) **[**In Montgomery County, Prince George's County, Baltimore County, Baltimore City, and Howard County, the**]** ~~**THE**~~ **SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE** public school employer **[**may**]** **SHALL** negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a ~~**REQUIRED**~~ **REQUIREMENT OF A** reasonable service or representation fee, to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.

(2) The service or representation fee may not exceed the annual dues of the members of the organization.

(3) An employee who is a substitute teacher and who works on a short–term day–to–day basis is not required to pay a service or representation fee.

(4) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) Not required to pay a service or representation fee; and

(ii) Required to pay an amount of money as determined in paragraph (2) of this subsection to a nonreligious, nonunion charity or to such other

charitable organization as may be mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of such payment.

[(5) (i) In Baltimore County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 1997.

(ii) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.

(iii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(iv) The employee organization designated as the exclusive representative shall submit to the board an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.

(v) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including the handling of grievances, and other activities, as required under this section.

2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.**]**

(5) THE EXCLUSIVE REPRESENTATIVE SHALL ESTABLISH AND MAINTAIN A PROCEDURE THAT PROVIDES NONMEMBERS WITH:

(I) AN ADEQUATE EXPLANATION OF THE BASIS FOR THE SERVICE OR REPRESENTATION FEE; AND

(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE FEE.

[(6) ~~In Montgomery County, an~~ **AN** employee who is a home or hospital teacher and who works on a short–term day–to–day basis is not required to pay a service or representation fee.**]**

~~(6)~~ **(7) THE PUBLIC SCHOOL EMPLOYER SHALL:**

(I) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A SCHEDULE PROVIDED BY THE EXCLUSIVE REPRESENTATIVE; AND

(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE EXCLUSIVE REPRESENTATIVE.

[(d) (1) In Allegany County, Calvert County, Charles County, Garrett County, and Washington County, the public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee, to be charged nonmembers for representing them in negotiation, contract administration, including grievances, and other activities specified under subsection (b) of this section.

(2) In Charles County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 2005.

(e) In Garrett County:

(1) A public school employee who is not a member of the employee organization designated as the exclusive representative for the public school employees in a unit at the time that a negotiated service or representation fee is initiated is exempt from the fee provided under subsection (d) of this section; and

(2) An individual who becomes a public school employee after the time that a negotiated service or representation fee is initiated and does not join the employee organization designated as the exclusive representative is liable for the fee provided under subsection (d) of this section.

(f) In Anne Arundel County:

(1) The public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.

(2) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the employee organization designated as the exclusive representative for

the public school employees shall indemnify and hold harmless the Anne Arundel County Board of Education against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(ii) The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(3) The employee organization designated as the exclusive representative shall submit to the Anne Arundel County Board of Education an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the service or representation fee is calculated based on the audit.

(4) (i) The service or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including grievances, and other activities under this section.

(ii) Political activities of the employee organization designated as the exclusive representative may not be financed with the funds collected from the service or representation fee.

(5) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) Not required to pay a service or representation fee; and

(ii) Required to pay an amount of money as determined under paragraph (1) of this subsection to a nonreligious, nonunion charity or to another charitable organization that is mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of the payment.

(6) Any negotiated agreement that includes a representation fee also shall contain a provision that requires that an amount of revenue equal to 25% of the annual representation fees collected and maintained by the local bargaining representative be designated for professional development for represented educators.

(7) This subsection shall apply only to employees who are hired on or after October 1, 2004.]

(D) WHEN NEGOTIATING THE IMPLEMENTATION OF A SERVICE OR REPRESENTATION FEE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER

AND THE EXCLUSIVE BARGAINING REPRESENTATIVE SHALL NEGOTIATE WHETHER THE FEE IS APPLICABLE TO CURRENT EMPLOYEES.

(E) (1) THIS SUBSECTION APPLIES TO A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE WAS NOT NEGOTIATED BEFORE JULY 1, 2013.

(2) THE FOLLOWING EMPLOYEES IN A UNIT ARE ELIGIBLE TO VOTE ON RATIFICATION OF THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A SERVICE OR REPRESENTATION FEE:

(I) MEMBERS OF THE EMPLOYEE ORGANIZATION; AND

(II) NONMEMBERS AFFECTED BY THE SERVICE OR REPRESENTATION FEE.

(3) THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A SERVICE OR REPRESENTATION FEE SHALL BE RATIFIED BY A MAJORITY OF VOTES CAST BY THE EMPLOYEES ELIGIBLE TO VOTE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~(D)~~ **(F) IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1, 2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT THE NEED FOR FURTHER NEGOTIATIONS.**

6–504.

(a) A public school employee may refuse to join or participate in the activities of employee organizations.

(b) (1) **[**In Montgomery County, Allegany County, Charles County, and Howard County, the county board**]** ~~THE~~ **SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE PUBLIC SCHOOL EMPLOYER**, with respect to noncertificated employees, shall negotiate a structure of **REQUIRED** reasonable service **OR REPRESENTATION** fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.

[(2) In Charles County, the provisions of this subsection shall apply only to employees hired on or after July 1, 2005.**]**

(2) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING ORGANIZATION IS:

(I) NOT REQUIRED TO PAY A SERVICE OR REPRESENTATION FEE; AND

(II) REQUIRED TO PAY AN AMOUNT OF MONEY THAT IS EQUAL TO THE SERVICE OR REPRESENTATION FEE TO A NONRELIGIOUS, NONUNION CHARITY OR TO SUCH OTHER CHARITABLE ORGANIZATION AS MAY BE MUTUALLY AGREED UPON BY THE EMPLOYEE AND THE EMPLOYEE ORGANIZATION, AND WHO FURNISHES TO THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION WRITTEN PROOF OF THE PAYMENT.

[(c) In Prince George's County, the county board shall negotiate an organizational security provision, commonly known as "agency shop", with employee organizations.**]**

(C) THE EMPLOYEE ORGANIZATION SHALL ESTABLISH AND MAINTAIN A PROCEDURE THAT PROVIDES NONMEMBERS WITH:

~~(I)~~ (1) AN ADEQUATE EXPLANATION OF THE BASIS FOR THE SERVICE OR REPRESENTATION FEE; AND

~~(II)~~ (2) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE FEE.

[(d) (1) In Anne Arundel County, Baltimore County, and Garrett County, the county board, with respect to noncertificated employees, may negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.

(2) In Anne Arundel County, if the county board negotiates a structure of fees as authorized under this subsection:

(i) Each party shall:

1. Confer in good faith, at all reasonable times; and

2. Reduce to writing the matters agreed on as a result of the negotiations; and

(ii) Neither party is required to agree to any proposal or to make any concession.

(3) (i) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.

(ii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(iii) The employee organization designated as the exclusive representative shall submit to the board an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.

(iv) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including the handling of grievances, and other activities as required under § 6–509 of this subtitle; and

2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.

(4) In Garrett County, if a noncertificated employee was not a public school employee at the time that a service fee under paragraph (1) of this subsection was initiated, the noncertificated employee may not be charged a service fee.**]**

(D) THE PUBLIC SCHOOL EMPLOYER SHALL:

(I) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A SCHEDULE PROVIDED BY THE EMPLOYEE ORGANIZATION; AND

(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE EMPLOYEE ORGANIZATION.

[(e) In Baltimore City, the public school employer shall negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee to be charged to nonmembers for representing them in negotiations in the same manner that any such fee was permitted under law and bargained for prior to January 1, 1997.**]**

(E) WHEN NEGOTIATING THE IMPLEMENTATION OF A SERVICE OR REPRESENTATION FEE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE BARGAINING REPRESENTATIVE SHALL FIRST NEGOTIATE WHETHER THE FEE IS APPLICABLE TO CURRENT EMPLOYEES.

(F) (1) THIS SUBSECTION APPLIES TO A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE WAS NOT NEGOTIATED BEFORE JULY 1, 2013.

(2) THE FOLLOWING EMPLOYEES IN A UNIT ARE ELIGIBLE TO VOTE ON RATIFICATION OF THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A SERVICE OR REPRESENTATION FEE:

(I) MEMBERS OF THE EMPLOYEE ORGANIZATION; AND

(II) NONMEMBERS AFFECTED BY THE SERVICE OR REPRESENTATION FEE.

(3) THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A SERVICE OR REPRESENTATION FEE SHALL BE RATIFIED BY A MAJORITY OF VOTES CAST BY THE EMPLOYEES ELIGIBLE TO VOTE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~(E)~~ (G) IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1, 2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT THE NEED FOR FURTHER NEGOTIATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to require any further negotiations regarding provisions of applicability to employees based on date of hire that are contained in an implementing agreement that provided for a service or representation fee negotiated prior to July 1, 2013.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 262

(House Bill 667)

AN ACT concerning

Public School Employees – Collective Bargaining – Representation Fees

FOR the purpose of requiring public school employers in all jurisdictions of the State to negotiate with certain employee organizations designated as the exclusive representatives for the public school employees a requirement of a certain service or representation fee to be charged to nonmembers; *exempting certain employees from certain requirements for paying service or representation fees; requiring certain public school employers and certain exclusive bargaining representatives to negotiate whether service or representation fees are applicable to certain employees under certain circumstances; providing for the ratification of certain contracts in certain counties by certain employees after a certain date;* providing a certain exception and requirement for noncertificated employees whose religious beliefs are opposed to joining or financially supporting a collective bargaining organization; requiring the exclusive representative to establish and maintain a certain procedure; requiring the public school employer to deduct a certain fee from the earnings of nonmember employees in accordance with a certain schedule; excluding certain negotiated fees from certain requirements and further negotiations; making conforming changes; *providing for the application of this Act;* and generally relating to representation fees for public school employees.

BY repealing and reenacting, with amendments,
Article – Education
Section 6–407(c) and 6–504
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing
Article – Education
Section 6–407(d), (e), and (f)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 6–407(d)*, (e), and (f)*
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

6–407.

(c) (1) **[**In Montgomery County, Prince George's County, Baltimore County, Baltimore City, and Howard County, the**]** ~~**THE**~~ ***SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE*** public school employer **[**may**]** **SHALL** negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a ~~**REQUIRED**~~ **REQUIREMENT OF A** reasonable service or representation fee, to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.

(2) The service or representation fee may not exceed the annual dues of the members of the organization.

(3) An employee who is a substitute teacher and who works on a short–term day–to–day basis is not required to pay a service or representation fee.

(4) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) Not required to pay a service or representation fee; and

(ii) Required to pay an amount of money as determined in paragraph (2) of this subsection to a nonreligious, nonunion charity or to such other charitable organization as may be mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of such payment.

[(5) (i) In Baltimore County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 1997.

(ii) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.

(iii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(iv) The employee organization designated as the exclusive representative shall submit to the board an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.

(v) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including the handling of grievances, and other activities, as required under this section.

2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.**]**

(5) THE EXCLUSIVE REPRESENTATIVE SHALL ESTABLISH AND MAINTAIN A PROCEDURE THAT PROVIDES NONMEMBERS WITH:

(I) AN ADEQUATE EXPLANATION OF THE BASIS FOR THE SERVICE OR REPRESENTATION FEE; AND

(II) AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE FEE.

[(6) ~~In Montgomery County, an~~ ***AN*** employee who is a home or hospital teacher and who works on a short–term day–to–day basis is not required to pay a service or representation fee.**]**

~~**(6)**~~ **(7) THE PUBLIC SCHOOL EMPLOYER SHALL:**

(I) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A SCHEDULE PROVIDED BY THE EXCLUSIVE REPRESENTATIVE; AND

(II) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE EXCLUSIVE REPRESENTATIVE.

[(d) (1) In Allegany County, Calvert County, Charles County, Garrett County, and Washington County, the public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee, to be charged nonmembers for representing them in negotiation, contract administration, including grievances, and other activities specified under subsection (b) of this section.

(2) In Charles County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 2005.

(e) In Garrett County:

(1) A public school employee who is not a member of the employee organization designated as the exclusive representative for the public school employees in a unit at the time that a negotiated service or representation fee is initiated is exempt from the fee provided under subsection (d) of this section; and

(2) An individual who becomes a public school employee after the time that a negotiated service or representation fee is initiated and does not join the employee organization designated as the exclusive representative is liable for the fee provided under subsection (d) of this section.

(f) In Anne Arundel County:

(1) The public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.

(2) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Anne Arundel County Board of Education against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(ii) The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(3) The employee organization designated as the exclusive representative shall submit to the Anne Arundel County Board of Education an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the service or representation fee is calculated based on the audit.

(4) (i) The service or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including grievances, and other activities under this section.

(ii) Political activities of the employee organization designated as the exclusive representative may not be financed with the funds collected from the service or representation fee.

(5) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) Not required to pay a service or representation fee; and

(ii) Required to pay an amount of money as determined under paragraph (1) of this subsection to a nonreligious, nonunion charity or to another charitable organization that is mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of the payment.

(6) Any negotiated agreement that includes a representation fee also shall contain a provision that requires that an amount of revenue equal to 25% of the annual representation fees collected and maintained by the local bargaining representative be designated for professional development for represented educators.

(7) This subsection shall apply only to employees who are hired on or after October 1, 2004.**]**

(D) WHEN NEGOTIATING THE IMPLEMENTATION OF A SERVICE OR REPRESENTATION FEE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE BARGAINING REPRESENTATIVE SHALL NEGOTIATE WHETHER THE FEE IS APPLICABLE TO CURRENT EMPLOYEES.

(E) (1) THIS SUBSECTION APPLIES TO A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE WAS NOT NEGOTIATED BEFORE JULY 1, 2013.

(2) THE FOLLOWING EMPLOYEES IN A UNIT ARE ELIGIBLE TO VOTE ON RATIFICATION OF THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A SERVICE OR REPRESENTATION FEE:

(I) MEMBERS OF THE EMPLOYEE ORGANIZATION; AND

(II) NONMEMBERS AFFECTED BY THE SERVICE OR REPRESENTATION FEE.

(3) THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A SERVICE OR REPRESENTATION FEE SHALL BE RATIFIED BY A MAJORITY OF VOTES CAST BY THE EMPLOYEES ELIGIBLE TO VOTE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~(D)~~ *(F)* **IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1, 2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT THE NEED FOR FURTHER NEGOTIATIONS.**

6–504.

(a) A public school employee may refuse to join or participate in the activities of employee organizations.

(b) (1) **[**In Montgomery County, Allegany County, Charles County, and Howard County, the county board**]** ~~THE~~ ***SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE*** **PUBLIC SCHOOL EMPLOYER**, with respect to noncertificated employees, shall negotiate a structure of **REQUIRED** reasonable service **OR REPRESENTATION** fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.

[(2) In Charles County, the provisions of this subsection shall apply only to employees hired on or after July 1, 2005.**]**

(2) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING ORGANIZATION IS:

(I) NOT REQUIRED TO PAY A SERVICE OR REPRESENTATION FEE; AND

(II) REQUIRED TO PAY AN AMOUNT OF MONEY THAT IS EQUAL TO THE SERVICE OR REPRESENTATION FEE TO A NONRELIGIOUS, NONUNION CHARITY OR TO SUCH OTHER CHARITABLE ORGANIZATION AS MAY BE MUTUALLY AGREED UPON BY THE EMPLOYEE AND THE EMPLOYEE ORGANIZATION, AND WHO FURNISHES TO THE PUBLIC SCHOOL EMPLOYER AND THE EMPLOYEE ORGANIZATION WRITTEN PROOF OF THE PAYMENT.

[(c) In Prince George's County, the county board shall negotiate an organizational security provision, commonly known as "agency shop", with employee organizations.**]**

(C) THE EMPLOYEE ORGANIZATION SHALL ESTABLISH AND MAINTAIN A PROCEDURE THAT PROVIDES NONMEMBERS WITH:

~~(I)~~ *(1)* **AN ADEQUATE EXPLANATION OF THE BASIS FOR THE SERVICE OR REPRESENTATION FEE; AND**

~~(II)~~ *(2)* AN OPPORTUNITY TO CHALLENGE THE AMOUNT OF THE FEE.

[(d) (1) In Anne Arundel County, Baltimore County, and Garrett County, the county board, with respect to noncertificated employees, may negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.

(2) In Anne Arundel County, if the county board negotiates a structure of fees as authorized under this subsection:

(i) Each party shall:

1. Confer in good faith, at all reasonable times; and

2. Reduce to writing the matters agreed on as a result of the negotiations; and

(ii) Neither party is required to agree to any proposal or to make any concession.

(3) (i) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.

(ii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

(iii) The employee organization designated as the exclusive representative shall submit to the board an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.

(iv) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in

negotiations, contract administration, including the handling of grievances, and other activities as required under § 6–509 of this subtitle; and

2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.

(4) In Garrett County, if a noncertificated employee was not a public school employee at the time that a service fee under paragraph (1) of this subsection was initiated, the noncertificated employee may not be charged a service fee.**]**

(D) THE PUBLIC SCHOOL EMPLOYER SHALL:

(1) DEDUCT THE SERVICE OR REPRESENTATION FEE FROM THE EARNINGS OF THE NONMEMBER EMPLOYEES IN ACCORDANCE WITH A SCHEDULE PROVIDED BY THE EMPLOYEE ORGANIZATION; AND

(2) PROMPTLY TRANSMIT THE AMOUNT DEDUCTED TO THE EMPLOYEE ORGANIZATION.

[(e) In Baltimore City, the public school employer shall negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee to be charged to nonmembers for representing them in negotiations in the same manner that any such fee was permitted under law and bargained for prior to January 1, 1997.**]**

(E) WHEN NEGOTIATING THE IMPLEMENTATION OF A SERVICE OR REPRESENTATION FEE UNDER THIS SECTION, THE PUBLIC SCHOOL EMPLOYER AND THE EXCLUSIVE BARGAINING REPRESENTATIVE SHALL FIRST NEGOTIATE WHETHER THE FEE IS APPLICABLE TO CURRENT EMPLOYEES.

(F) (1) THIS SUBSECTION APPLIES TO A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE WAS NOT NEGOTIATED BEFORE JULY 1, 2013.

(2) THE FOLLOWING EMPLOYEES IN A UNIT ARE ELIGIBLE TO VOTE ON RATIFICATION OF THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A SERVICE OR REPRESENTATION FEE:

(I) MEMBERS OF THE EMPLOYEE ORGANIZATION; AND

(II) NONMEMBERS AFFECTED BY THE SERVICE OR REPRESENTATION FEE.

(3) THE IMPLEMENTING AGREEMENT THAT PROVIDES FOR A SERVICE OR REPRESENTATION FEE SHALL BE RATIFIED BY A MAJORITY OF

VOTES CAST BY THE EMPLOYEES ELIGIBLE TO VOTE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~(E)~~ *(G)* IN A COUNTY IN WHICH A SERVICE OR REPRESENTATION FEE HAS BEEN NEGOTIATED BEFORE JULY 1, 2013, THE FEE SHALL BE IMPLEMENTED UNDER THE PROVISIONS OF THE AGREEMENT NEGOTIATED BEFORE JULY 1, 2013, AND CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION WITHOUT THE NEED FOR FURTHER NEGOTIATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to require any further negotiations regarding provisions of applicability to employees based on date of hire that are contained in an implementing agreement that provided for a service or representation fee negotiated before July 1, 2013.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 263

(Senate Bill 424)

AN ACT concerning

Somerset County – Emergency Burning Ban – Adoption and Enforcement

FOR the purpose of authorizing the County Commissioners of Somerset County to adopt a certain emergency burning ban; prohibiting a person from starting or allowing any open air burning during an emergency burning ban; exempting certain ~~supervised~~ burning activities from a certain emergency burning ban; authorizing the County Commissioners, by resolution, to set a fine for a violation of a certain emergency burning ban; authorizing the Sheriff of Somerset County and the Sheriff's deputies to assess a certain fine against any person believed to be in violation of a certain emergency burning ban; defining certain terms; and generally relating to the adoption and enforcement of an emergency burning ban in Somerset County.

BY adding to
The Public Local Laws of Somerset County
Section 2–416
Article 20 – Public Local Laws of Maryland
(2003 Edition and 2009 Supplement, as amended)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 20 – Somerset County

2–416.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "EMERGENCY BURNING BAN" MEANS A COMPLETE BAN ON ALL OPEN AIR BURNING THAT IS DECLARED BY THE COUNTY COMMISSIONERS DUE TO PROLONGED DROUGHT OR UNUSUAL CONDITIONS THAT ARE CONDUCIVE TO THE EASY START AND SPREAD OF FIRE.

(3) "OPEN AIR BURNING" MEANS BURNING ANY MATERIAL IN THE OPEN OR IN A RECEPTACLE OTHER THAN A FURNACE, INCINERATOR, OR OTHER EQUIPMENT CONNECTED TO A STACK OR CHIMNEY.

(B) THE COUNTY COMMISSIONERS MAY ADOPT AN EMERGENCY BURNING BAN EFFECTIVE THROUGHOUT THE COUNTY.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT START OR ALLOW OPEN AIR BURNING DURING AN EMERGENCY BURNING BAN.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) OPEN AIR BURNING ON STATE–OWNED PROPERTY THAT IS CONDUCTED IN ACCORDANCE WITH STATE LAW;

~~(I)~~ (II) THE SUPERVISED BURNING OF BUILDINGS OR SOLID, LIQUID, OR GASEOUS FUELS CONDUCTED UNDER THE DIRECT CONTROL AND SUPERVISION OF QUALIFIED INSTRUCTORS AT A TRAINING CENTER OPERATED BY A FIRE DEPARTMENT; OR

~~(II)~~ (III) ANY OTHER SUPERVISED BURNING CONDUCTED UNDER THE DIRECT CONTROL AND SUPERVISION OF:

1. A QUALIFIED FIRE INSTRUCTOR; OR

2. A FIRE CHIEF, CAPTAIN, OR FIRE LINE OFFICER OF A FIRE DEPARTMENT THAT HAS JURISDICTION OVER THE AREA WHERE THE SUPERVISED BURNING OCCURS.

(D) THE COUNTY COMMISSIONERS, BY RESOLUTION, MAY SET A FINE FOR A VIOLATION OF AN EMERGENCY BURNING BAN ADOPTED UNDER SUBSECTION (B) OF THIS SECTION.

(E) THE SHERIFF AND THE SHERIFF'S DEPUTIES MAY ASSESS A FINE ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION AGAINST ANY PERSON BELIEVED TO BE IN VIOLATION OF AN EMERGENCY BURNING BAN ADOPTED UNDER SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 264

(Senate Bill 426)

AN ACT concerning

Anne Arundel County – Drug Free School Zones – Hotline Number on Signs

FOR the purpose of requiring that a certain hotline number to report information concerning suspected illegal drug activity be included on certain signs designating certain areas as drug free school zones in Anne Arundel County; and generally relating to drug free school zone signs in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article – Education
Section 4–124
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

4–124.

(a) A county board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of public and nonpublic elementary and secondary schools as "drug free school zones".

(b) The signs shall be designed in order to provide notice of the provisions of § 5–627 of the Criminal Law Article.

(c) In **ANNE ARUNDEL COUNTY,** Baltimore City**,** and Prince George's County, all new and replacement signs shall include a hotline number to report information concerning suspected illegal drug activity.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 265

(House Bill 891)

AN ACT concerning

Anne Arundel County – Drug Free School Zones – Hotline Number on Signs

FOR the purpose of requiring that a certain hotline number to report information concerning suspected illegal drug activity be included on certain signs designating certain areas as drug free school zones in Anne Arundel County; and generally relating to drug free school zone signs in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article – Education
Section 4–124
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

4–124.

(a) A county board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of public and nonpublic elementary and secondary schools as "drug free school zones".

(b) The signs shall be designed in order to provide notice of the provisions of § 5–627 of the Criminal Law Article.

(c) In **ANNE ARUNDEL COUNTY,** Baltimore City**,** and Prince George's County, all new and replacement signs shall include a hotline number to report information concerning suspected illegal drug activity.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 266

(Senate Bill 431)

AN ACT concerning

Higher Education – University System of Maryland – Quasi–Endowments

FOR the purpose of authorizing the Board of Regents of the University System of Maryland to maintain and manage quasi–endowment funds; limiting a certain transfer to a certain quasi–endowment fund; altering a certain reporting requirement; defining a certain term; and generally relating to the University System of Maryland.

BY repealing and reenacting, with amendments,
Article – Education
Section 12–101, 12–104(e), and 17–301(c)(1)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 12–104(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

12–101.

(a) In order to foster the development of a consolidated system of public higher education, to improve the quality of education, to extend its benefits and to

encourage the economical use of the State's resources, the University System of Maryland is established in accordance with the provisions of this title.

(b) (1) In this title the following words have the meanings indicated.

(2) "Board" or "Board of Regents" means the Board of Regents of the University System of Maryland.

(3) "CENTERS" OR "INSTITUTES" MEANS THE FOLLOWING COMPONENTS OF THE SYSTEM UNDER THE JURISDICTION OF THE BOARD OF REGENTS:

(I) UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE;

(II) COOPERATIVE EXTENSION SERVICE AND THE AGRICULTURAL EXPERIMENT STATION;

(III) STATEWIDE MEDICAL EDUCATION AND TRAINING SYSTEM;

(IV) FIRE AND RESCUE INSTITUTE; AND

(V) ANY OTHER CENTER, COMPONENT, OR INSTITUTE ESTABLISHED AND OPERATED BY THE SYSTEM IN ACCORDANCE WITH ITS MISSION.

[(3)**] (4)** "Chancellor" means the Chief Executive Officer of the University System of Maryland and the Chief of Staff for the Board of Regents.

[(4) "President" means the Chief Executive Officer of a constituent institution of the University System of Maryland.**]**

(5) "COMPUTER–BASED INSTRUCTIONAL TECHNOLOGY" MEANS COMPUTER HARDWARE OR SOFTWARE USED BY FACULTY AND STUDENTS IN THE DELIVERY OF THE INSTRUCTIONAL PROGRAM.

[(5)**] (6)** "Constituent institutions", "institutions", or "campuses" means the following public senior higher education institutions under the jurisdiction of the Board of Regents:

(i) University of Maryland, Baltimore;

(ii) University of Maryland Baltimore County;

(iii) University of Maryland, College Park;

(iv) University of Maryland Eastern Shore;

(v) University of Maryland University College;

(vi) Bowie State University;

(vii) Coppin State University;

(viii) Frostburg State University;

(ix) Salisbury University;

(x) Towson University; and

(xi) University of Baltimore.

[(6) "Centers" or "institutes" means the following components of the System under the jurisdiction of the Board of Regents:

(i) University of Maryland Center for Environmental Science;

(ii) Cooperative Extension Service and the Agricultural Experiment Station;

(iii) Statewide Medical Education and Training System;

(iv) Fire and Rescue Institute; and

(v) Any other center, component, or institute established and operated by the System in accordance with its mission.**]**

(7) "PRESIDENT" MEANS THE CHIEF EXECUTIVE OFFICER OF A CONSTITUENT INSTITUTION OF THE UNIVERSITY SYSTEM OF MARYLAND.

(8) "QUASI–ENDOWMENT FUNDS" MEANS FUNDS THAT THE UNIVERSITY SYSTEM OF MARYLAND RETAINS AND MANAGES IN THE SAME MANNER AS AN ENDOWMENT.

(9) "TECHNOLOGY" MEANS THE LATEST STATE–OF–THE–ART TECHNOLOGY PRODUCTS AND SERVICES, INCLUDING:

(I) COPPER AND FIBER OPTIC TRANSMISSION;

(II) COMPUTER;

(III) VIDEO AND AUDIO LASER AND CD–ROM DISCS;

(IV) VIDEO AND AUDIO TAPES OR OTHER TECHNOLOGIES; AND

(V) TECHNOLOGY USED FOR ONLINE LEARNING.

[(7)**] (10)** "University" or "University of Maryland" or "University of Maryland System" means the University System of Maryland.

[(8) "Computer–based instructional technology" means computer hardware or software used by faculty and students in the delivery of the instructional program.

(9) "Technology" means the latest state–of–the–art technology products and services, including:

(i) Copper and fiber optic transmission;

(ii) Computer;

(iii) Video and audio laser and CD–ROM discs;

(iv) Video and audio tapes or other technologies; and

(v) Technology used for on–line learning.**]**

12–104.

(a) In addition to any other powers granted and duties imposed by this title, and subject to the provisions of Title 11 of this article and any other restriction imposed by law by specific reference to the University System of Maryland, or by any trust agreement involving a pledge of property or money, the Board of Regents has the powers and duties set forth in this section.

(e) (1) The Board may:

(i) Apply for, accept, and spend any gift or grant from the federal government, any foundation, or any other person; and

(ii) Maintain and manage gift and endowment funds~~, INCLUDING QUASI–ENDOWMENT FUNDS~~.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE BOARD MAY MAINTAIN AND MANAGE QUASI–ENDOWMENT FUNDS.

(II) THE BOARD MAY ONLY MAKE A ONE–TIME TRANSFER OF NO MORE THAN $50,000,000 FROM THE NON–STATE SUPPORTED FUND BALANCE HELD AND INVESTED BY THE STATE TREASURER TO THE QUASI–ENDOWMENT FUND.

~~(2)~~ **(3)** On or before November 1 each year, the Board shall submit to the Governor, the Comptroller, the State Treasurer, and, in accordance with § 2–1246 of the State Government Article, the General Assembly, an annual investment performance report comparing the various components of the University's gift **[**and**],** endowment**, AND QUASI–ENDOWMENT** investment portfolio to appropriate benchmarks.

17–301.

(c) "Eligible institution" means:

(1) Each public senior higher education institution identified in § 10–101(m) or § **[**12–101(b)(5)**] 12–101(B)(3)** of this article or its affiliated foundation; and

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 267

(Senate Bill 436)

AN ACT concerning

Recordation Taxes – Exemptions

FOR the purpose of exempting certain indemnity mortgage transactions from the recordation tax; making certain indemnity mortgage transactions subject to recordation tax after a certain date; authorizing a certain calculation or allocation of recordation tax on indemnity mortgage transactions; altering the information required to be included in a certain recital, acknowledgment, or affidavit; altering the transaction amount that is subject to the recordation tax for supplemental instruments of writing; making certain refinancing instruments exempt from the recordation tax; altering a certain definition; and generally relating to exemptions from the recordation tax.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 12–101(l), 12–105(f)(7), and 12–108(e) and (g)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

12–101.

(l) (1) "Supplemental instrument of writing" means an instrument of writing that confirms, corrects, modifies, **[**or**]** supplements**, OR AMENDS AND RESTATES** a previously recorded instrument of writing**, REGARDLESS OF WHETHER RECORDATION TAX WAS PAID ON SUCH INSTRUMENT OF WRITING**.

(2) "Supplemental instrument of writing" includes an instrument of writing that secures a debt and grants a security interest in property in addition to or in substitution for property described in the previously recorded instrument of writing.

12–105.

(f) (7) (i) In this paragraph, "indemnity mortgage" includes any mortgage, deed of trust, or other security interest in real property that secures a guarantee of repayment of a loan for which the guarantor is not primarily liable.

(ii) Except as provided in subparagraph (iii) of this paragraph:

1. secured debt with respect to an indemnity mortgage **RECORDED ON OR AFTER JULY 1, 2012,** is deemed to be incurred for purposes of this subsection when and to the same extent as debt is incurred on the guaranteed loan; and

2. the recordation tax applies under this subsection in the same manner as if the guarantor were primarily liable for the guaranteed loan.

(iii) This paragraph does not apply:

1. to the extent that recordation tax is paid on another instrument of writing that secures payment of the guaranteed loan; **[**or**]**

2. to an indemnity mortgage **[**that secures a guarantee of repayment of a loan **OR SERIES OF LOANS THAT ARE PART OF THE SAME**

TRANSACTION for**]** ~~**EVIDENCING A LIEN OF**~~ less than **[**$1,000,000**]** ~~**$5,000,000**~~ **$3,000,000; OR**

3. TO A SUPPLEMENTAL INSTRUMENT OF WRITING ~~**AS DEFINED IN § 12–101(L) OF THIS SUBTITLE**~~ **THAT CONFIRMS, CORRECTS, MODIFIES, SUPPLEMENTS, OR AMENDS AND RESTATES A PREVIOUSLY RECORDED INSTRUMENT OF WRITING REGARDLESS OF WHETHER RECORDATION TAX WAS PAID ON THE INSTRUMENT OF WRITING, TO THE EXTENT OF THE OUTSTANDING PRINCIPAL BALANCE OF THE GUARANTEED LOAN IMMEDIATELY PRIOR TO THE TIME THE SUPPLEMENTAL INSTRUMENT OF WRITING IS ENTERED INTO.**

(IV) RECORDATION TAX THAT IS OTHERWISE DUE ON THE RECORDING OF AN INDEMNITY MORTGAGE MAY BE ALLOCATED IN THE SAME MANNER DESCRIBED IN SUBSECTION (A) OF THIS SECTION OR CALCULATED ON THE AMOUNT OF THE DEBT STATED TO BE SECURED.

12–108.

(e) A supplemental instrument of writing is not subject to recordation tax except to the extent that:

(1) actual consideration is payable on the supplemental instrument of writing; or

(2) the amount of **UNPAID OUTSTANDING PRINCIPAL** debt ~~**SECURED**~~ is increased by the supplemental instrument of writing.

(g) (1) In this subsection, "original mortgagor" includes:

(i) **[**an individual who**]** **A PERSON THAT** assumed a debt secured by real property that the **[**individual**]** **PERSON** purchased **[**as a principal residence**]** and **[**who**]** paid the recordation tax on the consideration paid for the property; and

(ii) the trustee of an inter vivos trust if**[**:

1. the mortgaged property is used as a principal residence of the settlor of the trust; and

2.**]** the trustee or the settlor of the trust originally assumed or incurred the debt secured by the mortgage or deed of trust.

(2) A mortgage or deed of trust is not subject to recordation tax to the extent that it secures the refinancing of an amount not greater than the **[**unpaid

principal amount**]** ~~**DEBT**~~ secured by an existing mortgage**, INDEMNITY MORTGAGE,** or deed of trust at the time of refinancing if the mortgage or deed of trust secures the refinancing of real property that is:

(i) **[**1. used as a principal residence by the original mortgagor; and

2.**]** being refinanced by the original mortgagor or by the original mortgagor and**, IF APPLICABLE,** the spouse of the original mortgagor; or

(ii) **[**used as a principal residence**]** **BEING REFINANCED** by the settlor of an inter vivos trust if the mortgage or deed of trust is given by a trustee of the trust.

(3) To qualify for an exemption under paragraph (2) of this subsection an original mortgagor or agent of the original mortgagor shall include a statement in the recitals or in the acknowledgment of the mortgage or deed of trust, or submit with the mortgage or deed of trust, an affidavit under oath, signed by the original mortgagor or agent of the original mortgagor, stating:

(i) that the **[**individual**]** **PERSON** is the original mortgagor or agent of the original mortgagor; **AND**

(ii) **[**that the mortgaged property is the principal residence of the original mortgagor or of the settlor of an inter vivos trust if the mortgage or deed of trust is given by a trustee of the trust; and

(iii)**]** the amount of ~~[~~unpaid **OUTSTANDING** principal of~~]~~ the original mortgage**, INDEMNITY MORTGAGE,** or deed of trust that is being refinanced.

(4) A statement under paragraph (3) of this subsection by an agent of the original mortgagor shall state that the statement:

(i) is based on a diligent inquiry made by the agent with respect to the facts set forth in the statement; and

(ii) is true to the best of the knowledge, information, and belief of the agent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 268

(House Bill 1209)

AN ACT concerning

Recordation Taxes – Exemptions

FOR the purpose of exempting certain indemnity mortgage transactions from the recordation tax; making certain indemnity mortgage transactions subject to recordation tax after a certain date; authorizing a certain calculation or allocation of recordation tax on indemnity mortgage transactions; altering the information required to be included in a certain recital, acknowledgment, or affidavit; altering the transaction amount that is subject to the recordation tax for supplemental instruments of writing; making certain refinancing instruments exempt from the recordation tax; altering a certain definition; and generally relating to exemptions from the recordation tax.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 12–101(l), 12–105(f)(7), and 12–108(e) and (g)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

12–101.

(l) (1) "Supplemental instrument of writing" means an instrument of writing that confirms, corrects, modifies, **[**or**]** supplements**, OR AMENDS AND RESTATES** a previously recorded instrument of writing**, REGARDLESS OF WHETHER RECORDATION TAX WAS PAID ON SUCH INSTRUMENT OF WRITING**.

(2) "Supplemental instrument of writing" includes an instrument of writing that secures a debt and grants a security interest in property in addition to or in substitution for property described in the previously recorded instrument of writing.

12–105.

(f) (7) (i) In this paragraph, "indemnity mortgage" includes any mortgage, deed of trust, or other security interest in real property that secures a guarantee of repayment of a loan for which the guarantor is not primarily liable.

(ii) Except as provided in subparagraph (iii) of this paragraph:

1. secured debt with respect to an indemnity mortgage **RECORDED ON OR AFTER JULY 1, 2012,** is deemed to be incurred for purposes of this subsection when and to the same extent as debt is incurred on the guaranteed loan; and

2. the recordation tax applies under this subsection in the same manner as if the guarantor were primarily liable for the guaranteed loan.

(iii) This paragraph does not apply:

1. to the extent that recordation tax is paid on another instrument of writing that secures payment of the guaranteed loan; **[**or**]**

2. to an indemnity mortgage **[**that secures a guarantee of repayment of a loan **OR SERIES OF LOANS THAT ARE PART OF THE SAME TRANSACTION** for**]** ~~**EVIDENCING A LIEN OF**~~ less than **[**$1,000,000**]** ~~**$5,000,000**~~ **$3,000,000; OR**

3. TO A SUPPLEMENTAL INSTRUMENT OF WRITING ~~**AS DEFINED IN § 12–101(L) OF THIS SUBTITLE**~~ **THAT CONFIRMS, CORRECTS, MODIFIES, SUPPLEMENTS, OR AMENDS AND RESTATES A PREVIOUSLY RECORDED INSTRUMENT OF WRITING REGARDLESS OF WHETHER RECORDATION TAX WAS PAID ON THE INSTRUMENT OF WRITING, TO THE EXTENT OF THE OUTSTANDING PRINCIPAL BALANCE OF THE GUARANTEED LOAN IMMEDIATELY PRIOR TO THE TIME THE SUPPLEMENTAL INSTRUMENT OF WRITING IS ENTERED INTO.**

(IV) RECORDATION TAX THAT IS OTHERWISE DUE ON THE RECORDING OF AN INDEMNITY MORTGAGE MAY BE ALLOCATED IN THE SAME MANNER DESCRIBED IN SUBSECTION (A) OF THIS SECTION OR CALCULATED ON THE AMOUNT OF THE DEBT STATED TO BE SECURED.

12–108.

(e) A supplemental instrument of writing is not subject to recordation tax except to the extent that:

(1) actual consideration is payable on the supplemental instrument of writing; or

(2) the amount of **UNPAID OUTSTANDING PRINCIPAL** debt ~~**SECURED**~~ is increased by the supplemental instrument of writing.

(g) (1) In this subsection, "original mortgagor" includes:

(i) **[**an individual who**]** **A PERSON THAT** assumed a debt secured by real property that the **[**individual**]** **PERSON** purchased **[**as a principal residence**]** and **[**who**]** paid the recordation tax on the consideration paid for the property; and

(ii) the trustee of an inter vivos trust if**[**:

1. the mortgaged property is used as a principal residence of the settlor of the trust; and

2.**]** the trustee or the settlor of the trust originally assumed or incurred the debt secured by the mortgage or deed of trust.

(2) A mortgage or deed of trust is not subject to recordation tax to the extent that it secures the refinancing of an amount not greater than the **[**unpaid principal amount**]** ~~**DEBT**~~ secured by an existing mortgage**, INDEMNITY MORTGAGE,** or deed of trust at the time of refinancing if the mortgage or deed of trust secures the refinancing of real property that is:

(i) **[**1. used as a principal residence by the original mortgagor; and

2.**]** being refinanced by the original mortgagor or by the original mortgagor and**, IF APPLICABLE,** the spouse of the original mortgagor; or

(ii) **[**used as a principal residence**]** **BEING REFINANCED** by the settlor of an inter vivos trust if the mortgage or deed of trust is given by a trustee of the trust.

(3) To qualify for an exemption under paragraph (2) of this subsection an original mortgagor or agent of the original mortgagor shall include a statement in the recitals or in the acknowledgment of the mortgage or deed of trust, or submit with the mortgage or deed of trust, an affidavit under oath, signed by the original mortgagor or agent of the original mortgagor, stating:

(i) that the **[**individual**]** **PERSON** is the original mortgagor or agent of the original mortgagor; **AND**

(ii) **[**that the mortgaged property is the principal residence of the original mortgagor or of the settlor of an inter vivos trust if the mortgage or deed of trust is given by a trustee of the trust; and

(iii)**]** the amount of **[**unpaid **OUTSTANDING** principal of**]** the original mortgage**, INDEMNITY MORTGAGE,** or deed of trust that is being refinanced.

(4) A statement under paragraph (3) of this subsection by an agent of the original mortgagor shall state that the statement:

(i) is based on a diligent inquiry made by the agent with respect to the facts set forth in the statement; and

(ii) is true to the best of the knowledge, information, and belief of the agent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 269

(Senate Bill 446)

AN ACT concerning

Homeowner's or Renter's Insurance and Private Passenger Motor Vehicle Insurance – Bundling Requirement – Prohibited

FOR the purpose of prohibiting an insurer, with respect to homeowner's insurance or renter's insurance, from denying, refusing to renew, or canceling coverage solely because the applicant or policyholder does not carry private passenger motor vehicle insurance with ~~the insurer~~ certain insurers; prohibiting an insurer, with respect to private passenger motor vehicle insurance, from denying, refusing to renew, or canceling coverage solely because the applicant or policyholder does not carry homeowner's insurance or renter's insurance with ~~the insurer~~ certain insurers; providing that this Act does not prohibit certain actions by an applicant, a policyholder, or an insurer with respect to certain insurance policies; providing for the application of this Act; and generally relating to bundling policies of homeowner's insurance or renter's insurance and private passenger motor vehicle insurance.

BY adding to
Article – Insurance
Section 27–501(r)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

27–501.

(R) (1) THIS SUBSECTION APPLIES TO HOMEOWNER'S INSURANCE, RENTER'S INSURANCE, AND PRIVATE PASSENGER MOTOR VEHICLE INSURANCE.

(2) WITH RESPECT TO HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE, AN INSURER MAY NOT DENY, REFUSE TO RENEW, OR CANCEL COVERAGE FOR AN APPLICANT OR A POLICYHOLDER SOLELY BECAUSE THE APPLICANT OR POLICYHOLDER DOES NOT CARRY PRIVATE PASSENGER MOTOR VEHICLE INSURANCE WITH THE INSURER OR ANOTHER INSURER IN THE SAME INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7–101 OF THIS ARTICLE.

~~(2)~~ (3) WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE INSURANCE, AN INSURER MAY NOT DENY, REFUSE TO RENEW, OR CANCEL COVERAGE FOR AN APPLICANT OR A POLICYHOLDER SOLELY BECAUSE THE APPLICANT OR POLICYHOLDER DOES NOT CARRY HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE WITH THE INSURER OR ANOTHER INSURER IN THE SAME INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7–101 OF THIS ARTICLE.

~~(3)~~ (4) THIS SUBSECTION DOES NOT PROHIBIT:

(I) AN APPLICANT OR A POLICYHOLDER FROM BUNDLING HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE AND PRIVATE PASSENGER MOTOR VEHICLE INSURANCE POLICIES IF THE APPLICANT OR POLICYHOLDER CHOOSES TO DO SO; OR

(II) AN INSURER FROM OFFERING DISCOUNTS OR OTHER INCENTIVES TO APPLICANTS OR POLICYHOLDERS WHO CHOOSE TO BUNDLE HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE AND PRIVATE PASSENGER MOTOR VEHICLE INSURANCE POLICIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of homeowner's insurance, renter's insurance, and private passenger motor vehicle insurance issued, delivered, or renewed in the State on or after October 1, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 270

(House Bill 342)

AN ACT concerning

Homeowner's or Renter's Insurance and Private Passenger Motor Vehicle Insurance – Bundling Requirement – Prohibited

FOR the purpose of prohibiting an insurer, with respect to homeowner's insurance or renter's insurance, from denying, refusing to renew, or canceling coverage solely because the applicant or policyholder does not carry private passenger motor vehicle insurance with ~~the insurer~~ certain insurers; prohibiting an insurer, with respect to private passenger motor vehicle insurance, from denying, refusing to renew, or canceling coverage solely because the applicant or policyholder does not carry homeowner's insurance or renter's insurance with ~~the insurer~~ certain insurers; providing that this Act does not prohibit certain actions by an applicant, a policyholder, or an insurer with respect to certain insurance policies; providing for the application of this Act; and generally relating to bundling policies of homeowner's insurance or renter's insurance and private passenger motor vehicle insurance.

BY adding to
Article – Insurance
Section 27–501(r)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

27–501.

(R) (1) ***THIS SUBSECTION APPLIES TO HOMEOWNER'S INSURANCE, RENTER'S INSURANCE, AND PRIVATE PASSENGER MOTOR VEHICLE INSURANCE.***

(2) **WITH RESPECT TO HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE, AN INSURER MAY NOT DENY, REFUSE TO RENEW, OR CANCEL COVERAGE FOR AN APPLICANT OR A POLICYHOLDER SOLELY BECAUSE THE APPLICANT OR POLICYHOLDER DOES NOT CARRY PRIVATE PASSENGER MOTOR VEHICLE INSURANCE WITH THE INSURER OR ANOTHER INSURER IN THE SAME INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7–101 OF THIS ARTICLE.**

~~(2)~~ *(3)* WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE INSURANCE, AN INSURER MAY NOT DENY, REFUSE TO RENEW, OR CANCEL COVERAGE FOR AN APPLICANT OR A POLICYHOLDER SOLELY BECAUSE THE APPLICANT OR POLICYHOLDER DOES NOT CARRY HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE WITH THE INSURER OR ANOTHER INSURER IN THE SAME INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7–101 OF THIS ARTICLE.

~~(3)~~ *(4)* THIS SUBSECTION DOES NOT PROHIBIT:

(I) AN APPLICANT OR A POLICYHOLDER FROM BUNDLING HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE AND PRIVATE PASSENGER MOTOR VEHICLE INSURANCE POLICIES IF THE APPLICANT OR POLICYHOLDER CHOOSES TO DO SO; OR

(II) AN INSURER FROM OFFERING DISCOUNTS OR OTHER INCENTIVES TO APPLICANTS OR POLICYHOLDERS WHO CHOOSE TO BUNDLE HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE AND PRIVATE PASSENGER MOTOR VEHICLE INSURANCE POLICIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of homeowner's insurance, renter's insurance, and private passenger motor vehicle insurance issued, delivered, or renewed in the State on or after October 1, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 271

(Senate Bill 459)

AN ACT concerning

Health Occupations – Dental Hygienists – Provision of Services ~~Without Supervision~~ at a Community–Based Health Fair

FOR the purpose of authorizing a licensed dental hygienist, without the supervision of a dentist, to provide certain services ~~in any setting;~~ without compensation at certain community–based health fairs; requiring the Board of Dental

Examiners, in consultation with the Department of Health and Mental Hygiene's Office of Oral Health, to develop a certain form; requiring a certain dental hygienist to complete and submit a certain form to the Office of Oral Health under certain circumstances; defining a certain term; and generally relating to the practice of licensed dental hygienists.

BY adding to
Article – Health Occupations
Section 4–308.1
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

4–308.1.

(A) IN THIS SECTION, "COMMUNITY–BASED HEALTH FAIR" MEANS A HEALTH SERVICE EVENT THAT OFFERS PRIMARY HEALTH CARE SERVICES TO AN INDIVIDUAL FOR FREE OR USING A SLIDING FEE SCHEDULE THAT IS SPONSORED BY:

(1) THE FEDERAL, THE STATE, OR A LOCAL GOVERNMENT;

(2) A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; OR

(3) A NONPROFIT COMMUNITY ORGANIZATION THAT HAS THE STATED PURPOSE OF PROVIDING HEALTH SERVICES TO THE DISADVANTAGED.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A LICENSED DENTAL HYGIENIST, WITHOUT THE SUPERVISION OF A DENTIST, MAY PROVIDE WITHOUT COMPENSATION THE FOLLOWING SERVICES ~~IN ANY SETTING~~ AT A COMMUNITY–BASED HEALTH FAIR:

(1) ~~ORAL HEALTH AND WELLNESS ASSESSMENTS~~ A PRELIMINARY DENTAL EXAMINATION, INCLUDING CHARTING ANY CAVITIES, RESTORATIONS, OR MISSING TEETH;

(2) ~~DENTAL HYGIENE~~ ORAL HEALTH EDUCATION;

(3) ~~A REFERRAL TO A DENTAL HOME~~ TAKING BLOOD PRESSURE, PULSE RATE, RESPIRATION RATE, HEIGHT, AND WEIGHT; AND

(4) ~~FLUORIDE VARNISH TREATMENTS~~ REFERRALS TO A DENTAL HOME, INCLUDING PROVIDING A PATIENT WITH A LIST OF CLINICAL PUBLIC HEALTH FACILITIES.

(C) (1) THE BOARD, IN CONSULTATION WITH THE DEPARTMENT'S OFFICE OF ORAL HEALTH, SHALL DEVELOP A STANDARD FORM TO BE USED BY A DENTAL HYGIENIST WHO PERFORMS THE SERVICES AUTHORIZED UNDER THIS SECTION AT A COMMUNITY–BASED HEALTH FAIR.

(2) A DENTAL HYGIENIST WHO PERFORMS SERVICES IN ACCORDANCE WITH THIS SECTION SHALL:

(I) FILL OUT THE FORM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR EACH PATIENT WHO RECEIVED SERVICES FROM THE DENTAL HYGIENIST; AND

(II) SUBMIT THE COMPLETED FORM TO THE OFFICE OF ORAL HEALTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 272

(House Bill 1121)

AN ACT concerning

Health Occupations – Dental Hygienists – ~~Community Oral Health and Wellness Act~~ Provision of Services at a Community–Based Health Fair

FOR the purpose of authorizing a licensed dental hygienist, without the supervision of a dentist, ~~to volunteer without compensation~~ to provide certain services ~~in any setting;~~ without compensation at certain community–based health fairs; requiring the Board of Dental Examiners, in consultation with the Department of Health and Mental Hygiene's Office of Oral Health, to develop a certain form; requiring a certain dental hygienist to complete and submit a certain form to the Office of Oral Health under certain circumstances; defining a certain term; and generally relating to the practice of licensed dental hygienists.

BY adding to
Article – Health Occupations
Section 4–308.1
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

4–308.1.

(A) IN THIS SECTION, "COMMUNITY–BASED HEALTH FAIR" MEANS A HEALTH SERVICE EVENT THAT OFFERS PRIMARY HEALTH CARE SERVICES TO AN INDIVIDUAL FOR FREE OR USING A SLIDING FEE SCHEDULE THAT IS SPONSORED BY:

(1) THE FEDERAL, THE STATE, OR A LOCAL GOVERNMENT;

(2) A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; OR

(3) A NONPROFIT COMMUNITY ORGANIZATION THAT HAS THE STATED PURPOSE OF PROVIDING HEALTH SERVICES TO THE DISADVANTAGED.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A LICENSED DENTAL HYGIENIST, WITHOUT THE SUPERVISION OF A DENTIST, MAY ~~VOLUNTEER WITHOUT COMPENSATION TO~~ PROVIDE WITHOUT COMPENSATION THE FOLLOWING SERVICES ~~IN ANY SETTING~~ AT A COMMUNITY–BASED HEALTH FAIR:

(1) ~~ORAL HEALTH SCREENINGS AND RISK ASSESSMENTS FOR DENTAL CARIES, PERIODONTAL DISEASE, AND HEAD AND NECK CANCER~~ A PRELIMINARY DENTAL EXAMINATION, INCLUDING CHARTING ANY CAVITIES, RESTORATIONS, OR MISSING TEETH;

(2) ORAL HEALTH EDUCATION;

(3) ~~A REFERRAL TO A DENTAL HOME, AND FOLLOW–UP WHEN POSSIBLE, THAT SERVES ALL POPULATIONS, INCLUDING LOW–INCOME OR SPECIAL NEEDS POPULATIONS;~~ TAKING BLOOD PRESSURE, PULSE RATE, RESPIRATION RATE, HEIGHT, AND WEIGHT; AND

(4) ~~FLUORIDE VARNISH TREATMENTS BEGINNING WITH TOOTH ERUPTION FOR INDIVIDUALS AT MODERATE OR HIGH RISK FOR TOOTH DECAY, IN CONSULTATION WITH THE OFFICE OF ORAL HEALTH OF THE DEPARTMENT, A LICENSED DENTIST, OR A LICENSED PHYSICIAN; AND~~ REFERRALS TO A DENTAL HOME, INCLUDING PROVIDING A PATIENT WITH A LIST OF CLINICAL PUBLIC HEALTH FACILITIES.

~~(5) WELLNESS ASSESSMENTS THAT INCLUDE:~~

~~(I) BLOOD PRESSURE, PULSE, AND RESPIRATION;~~

~~(II) HEIGHT AND WEIGHT MEASUREMENTS;~~

~~(III) DIET AND NUTRITIONAL COUNSELING; AND~~

~~(IV) A REFERRAL TO A MEDICAL HOME, AND FOLLOW-UP WHEN POSSIBLE, THAT SERVES ALL POPULATIONS, INCLUDING LOW-INCOME OR SPECIAL NEEDS POPULATIONS.~~

(C) (1) THE BOARD, IN CONSULTATION WITH THE DEPARTMENT'S OFFICE OF ORAL HEALTH, SHALL DEVELOP A STANDARD FORM TO BE USED BY A DENTAL HYGIENIST WHO PERFORMS THE SERVICES AUTHORIZED UNDER THIS SECTION AT A COMMUNITY–BASED HEALTH FAIR.

(2) A DENTAL HYGIENIST WHO PERFORMS SERVICES IN ACCORDANCE WITH THIS SECTION SHALL:

(I) FILL OUT THE FORM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR EACH PATIENT WHO RECEIVED SERVICES FROM THE DENTAL HYGIENIST; AND

(II) SUBMIT THE COMPLETED FORM TO THE OFFICE OF ORAL HEALTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.