Laws

of the

State of Maryland

At the Session of the General Assembly Begun and Held in the
City of Annapolis on the Ninth Day of January 2013
and Ending on the Eighth Day of April 2013

Bills vetoed by the Governor appear after the Laws

VOLUME I

The Department of Legislative Services
General Assembly of Maryland
prepared this document.

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: (410-946-5400) Washington Area: (301-970-5400)
Other Areas: (1-800-492-7122)
TTY: (410-946-5401) (301-970-5401)
TTY users may also contact the
Maryland Relay Service to contact the General Assembly

E-mail: libr@mlis.state.md.us
Home Page: http://mgaleg.maryland.gov

The Department of Legislative Services does not discriminate on the basis of age, ancestry, color, creed, marital status, national origin, race, religion, gender, sexual orientation, or disability in the admission or access to its programs, services, or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at the telephone numbers shown above.

Contents

Laws of Maryland
Chapters
Joint Resolutions
Simple Resolutions

Vetoed Bills and Messages
List of Vetoed Senate Bills
List of Vetoed House Bills
Vetoed Senate Bills and Messages
Vetoed House Bills and Messages

Subject Index to Laws and Resolutions

Senate Bills Enacted

House Bills Enacted

Resolutions Passed and Approved
Joint Resolutions
Simple Resolutions

Statute Index to Enacted Laws
Public General Laws
Public Local Laws

Public Local Laws
Amendments to Code Counties (Appendix A)
Amendments to Charter Counties (Appendix B)
Amendments to Municipal Charters (Appendix C)

Subject Index to Public Local Laws

Statute Index to Public Local Laws
Code Counties and Charter Counties
Municipal Charters

Certifications
Results of Referenda

Statement of Revenues and Expenditures

Laws of Maryland

MARYLAND, Sct.:

At a Session of the General Assembly of Maryland, begun and held in the City of Annapolis on the Ninth Day of January 2013, and ending on the Eighth Day of April 2013, Martin O'Malley, being Governor of the State, the following laws were enacted, to wit:

Chapter 1

(Senate Bill 278)

AN ACT concerning

Maryland Employment Advancement Right Now (EARN) Program

FOR the purpose of establishing the Maryland Employment Advancement Right Now (EARN) Program (Maryland EARN Program) in the Department of Labor, Licensing, and Regulation (Department); requiring the Department, in consultation with the Department of Business and Economic Development and the Governor's Workforce Investment Board, to establish and administer the Program to provide certain grants on a competitive basis for certain purposes; requiring applications for certain grants under the Program to include certain information; authorizing certain grants to be awarded in a certain manner; requiring the grant process to give priority to certain strategic industry partnerships; authorizing the Department to adopt certain regulations; requiring the Department to monitor certain grants; authorizing the Department to impose certain requirements on certain recipients of certain grants and to revoke certain grants under certain circumstances; providing that certain intellectual property developed as a result of grants awarded under the Program remain in the public domain under certain circumstances; requiring the Department, in consultation with the Department of Budget and Management to develop and implement a certain State employment advancement strategy; requiring the Department, in consultation with the Department of Business and Economic Development and the Department of Information Technology to develop a certain Web site; providing for the funding of the Program; requiring the Department to submit a certain annual report;

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.
Italics indicate opposite chamber/conference committee amendments.

requiring the Department to convene a certain working group; requiring the Department to provide certain individuals with certain information; defining certain terms; and generally relating to the establishment of the Maryland Employment Advancement Right Now (EARN) Program.

BY adding to
Article – Labor and Employment
Section 11–701 through 11–710 to be under the new subtitle "Subtitle 7. Maryland Employment Advancement Right Now Program"
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, Even in the most difficult economic times, Maryland has continued to make significant investments in both the State's K–12 and higher education systems resulting in one of the most highly educated workforces in the country; and

WHEREAS, Despite these advances, many working families continue to face significant challenges in obtaining skills and credentials necessary to secure stable employment and to access opportunities for advancement in employment; and

WHEREAS, Maryland's employers and economic growth industries continue to lack skilled workers which inhibits the economic growth of the State; and

WHEREAS, Maryland's workforce development system has many excellent and highly ranked components that are often fragmented in a manner that inhibits the potential for significant economic progress in the State; and

WHEREAS, Creating a coordinated system to advance the skills of the State's workforce through a collaboration of industry, State and local governments, and nonprofits will grow Maryland's economy; and

WHEREAS, Providing access to career ladders for employment advancement and reducing barriers to employment can result in long–term improvements in the economic well–being of working families and will assist in sustaining and growing Maryland's middle class; and

WHEREAS, Maryland's ability to be competitive in the world economy will only truly improve through working collaborations of public, private, and nonprofit partners that make up the State's workforce development system; and

WHEREAS, Providing skills training for the rapid employment advancement of individuals while meeting the workforce needs of employers will promote both the prosperity of working families and economic development in the State; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

SUBTITLE 7. MARYLAND EMPLOYMENT ADVANCEMENT RIGHT NOW PROGRAM.

11–701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CREDENTIAL" MEANS A RECOGNIZED:

(1) EDUCATIONAL DIPLOMA;

(2) CERTIFICATE OR DEGREE;

(3) OCCUPATIONAL LICENSE;

(4) APPRENTICESHIP CERTIFICATE;

(5) INDUSTRY RECOGNIZED CERTIFICATION; OR

(6) AWARD FOR SKILLS ATTAINMENT AND COMPLETION, ISSUED BY AN APPROVED TRAINING PROVIDER IN THE STATE OR THIRD–PARTY CREDENTIAL PROVIDER.

(C) "HIGH–DEMAND OCCUPATION" MEANS AN OCCUPATION THAT:

(1) HAS A SIGNIFICANT PRESENCE WITHIN TARGET INDUSTRIES;

(2) IS IN DEMAND BY EMPLOYERS; AND

(3) PAYS OR LEADS TO PAYMENT OF A FAMILY SUSTAINING WAGE.

(D) "IDENTIFIABLE SKILL" MEANS THE ATTAINMENT OF PROFICIENCY IN A SPECIFIC WORK–RELATED SKILL THAT IS LIKELY TO LEAD TO FUTURE JOB ADVANCEMENT AND IMPROVEMENT IN AN INDIVIDUAL'S EARNING POTENTIAL.

(E) (1) "JOB READINESS TRAINING" MEANS TRAINING FOR THE PURPOSE OF ASSISTING AND SUPPORTING JOBSEEKERS IN OVERCOMING INDIVIDUAL BARRIERS TO EMPLOYMENT AND DEVELOPING THE SKILLS

NECESSARY TO MAINTAIN EMPLOYMENT AND TO QUALIFY FOR SKILLS TRAINING OPPORTUNITIES.

(2) "JOB READINESS TRAINING" INCLUDES:

(I) OCCUPATIONAL SKILLS DEVELOPMENT;

(II) GED PREPARATION;

(III) LITERACY ADVANCEMENT;

(IV) FINANCIAL STABILITY SERVICES, INCLUDING FINANCIAL COACHING;

(V) CREDIT COUNSELING;

(VI) TRANSPORTATION; AND

(VII) CHILD CARE.

(F) "LOCAL BOARD" MEANS A LOCAL WORKFORCE INVESTMENT BOARD ESTABLISHED TO ADMINISTER SERVICES IN A WORKFORCE INVESTMENT AREA ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE.

(G) "MARYLAND EARN PROGRAM" MEANS THE MARYLAND EMPLOYMENT ADVANCEMENT RIGHT NOW PROGRAM CREATED UNDER THIS SUBTITLE.

(H) "STRATEGIC INDUSTRY PARTNERSHIP" MEANS A COLLABORATION THAT BRINGS TOGETHER A REGIONAL GROUP THAT MAY INCLUDE EMPLOYERS, NONPROFITS, INSTITUTIONS OF HIGHER EDUCATION, COMMUNITY COLLEGES, LOCAL BOARDS, LOCAL GOVERNMENTS, OR OTHER RELEVANT PARTNERS TO:

(1) IDENTIFY COMMON WORKFORCE NEEDS FOR HIGH–DEMAND OCCUPATIONS WITHIN A TARGET INDUSTRY; AND

(2) DEVELOP AND IMPLEMENT INDUSTRY STRATEGIES TO MEET THE COMMON WORKFORCE NEEDS AND SHORTAGES BASED ON REGIONAL NEEDS.

(I) "TARGET INDUSTRY" MEANS A GROUP OF EMPLOYERS CLOSELY LINKED BY A COMMON PRODUCT OR SERVICE, WORKFORCE SKILLS, SIMILAR TECHNOLOGIES, SUPPLY CHAINS, OR OTHER ECONOMIC TIES.

11–702.

(A) THERE IS A MARYLAND EMPLOYMENT ADVANCEMENT RIGHT NOW (EARN) PROGRAM IN THE DEPARTMENT.

(B) THE PURPOSE OF THE MARYLAND EARN PROGRAM IS TO CREATE INDUSTRY–LED PARTNERSHIPS TO ADVANCE THE SKILLS OF THE STATE'S WORKFORCE, GROW THE STATE'S ECONOMY, AND INCREASE SUSTAINABLE EMPLOYMENT FOR WORKING FAMILIES.

(C) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND THE GOVERNOR'S WORKFORCE INVESTMENT BOARD, SHALL ESTABLISH AND ADMINISTER THE MARYLAND EARN PROGRAM TO PROVIDE GRANTS ON A COMPETITIVE BASIS FOR:

(1) AN APPROVED STRATEGIC INDUSTRY PARTNERSHIP FOR DEVELOPMENT OF A PLAN CONSISTENT WITH THE PURPOSE OF THE MARYLAND EARN PROGRAM;

(2) WORKFORCE TRAINING PROGRAMS AND OTHER QUALIFIED PROGRAMS THAT PROVIDE INDUSTRY VALUED SKILLS TRAINING TO INDIVIDUALS THAT RESULT IN A CREDENTIAL OR IDENTIFIABLE SKILL CONSISTENT WITH AN APPROVED STRATEGIC INDUSTRY PARTNERSHIP PLAN; AND

(3) JOB READINESS TRAINING AND SKILLS TRAINING THAT RESULTS IN A CREDENTIAL OR AN IDENTIFIABLE SKILL.

11–703.

(A) AN APPLICATION FOR A STRATEGIC INDUSTRY PARTNERSHIP GRANT UNDER § 11–702(C) OF THIS SUBTITLE SHALL:

(1) INCLUDE:

(I) EVIDENCE OF SHORTAGES IN SKILLED EMPLOYMENT WITHIN THE TARGET INDUSTRY OVER A SUSTAINED PERIOD OF TIME;

(II) A DESCRIPTION OF SPECIFIC HIGH–DEMAND OCCUPATIONS OR SETS OF OCCUPATIONS WITHIN THE TARGET INDUSTRY; AND

(III) THE SPECIFICS OF TRAINING PROGRAMS THAT WOULD RESULT IN INDIVIDUALS OBTAINING CREDENTIALS OR IDENTIFIABLE SKILLS TO

FACILITATE THEIR EMPLOYMENT OR ADVANCEMENT IN THE TARGETED INDUSTRY; AND

(2) IDENTIFY MEMBERS PARTICIPATING IN THE STRATEGIC INDUSTRY PARTNERSHIP AND INCLUDE IDENTIFICATION OF THE TARGET INDUSTRY AND THE PARTICIPATING LOCAL BOARD.

(B) GRANTS MAY BE AWARDED FOR SKILLS TRAINING CONSISTENT WITH AN APPROVED STRATEGIC INDUSTRY PARTNERSHIP PLAN DEVELOPED UNDER § 11–702(C) OF THIS SUBTITLE TO:

(1) INDUSTRIES WITH IDENTIFIED POSITIONS AND A DEMONSTRATED NEED FOR INCUMBENT WORKER TRAINING THAT CAN BE ACCESSED BY EMPLOYEES AT THEIR PLACE OF EMPLOYMENT OR OTHER LOCATION;

(2) INDUSTRIES WITH AN IDENTIFIED WORKFORCE SHORTAGE THAT WILL BE SEEKING TO HIRE INDIVIDUALS TO TRAIN TO MEET A SPECIFIC SKILL NEED;

(3) A MEMBER OF A STRATEGIC INDUSTRY PARTNERSHIP THAT CAN PROVIDE JOB READINESS TRAINING TO QUALIFIED INDIVIDUALS DIRECTLY OR THROUGH ACCOUNTS HELD AT LOCAL BOARDS ON BEHALF OF THE INDIVIDUAL; AND

(4) EDUCATIONAL PROVIDERS THAT OFFER TRAINING CONSISTENT WITH THE GOALS OF THE PLAN.

(C) THE COMPETITIVE GRANT PROCESS SHALL GIVE PRIORITY TO STRATEGIC INDUSTRY PARTNERSHIPS THAT MAXIMIZE THE POTENTIAL OF THE COLLABORATION THROUGH DIRECT FINANCIAL OR IN–KIND CONTRIBUTIONS BY MEMBERS OF THE TARGET INDUSTRY.

11–704.

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

11–705.

(A) THE DEPARTMENT SHALL MONITOR ALL GRANTS PROVIDED UNDER THE MARYLAND EARN PROGRAM.

(B) THE DEPARTMENT MAY REQUIRE THAT ALL RECIPIENTS OF STRATEGIC INDUSTRY PARTNERSHIP GRANTS:

(1) DEMONSTRATE AN ABILITY TO COLLABORATE SUCCESSFULLY; AND

(2) INCLUDE ADDITIONAL PROVISIONS IN A GRANT PROPOSAL TO ENSURE ACCOUNTABILITY.

(C) THE DEPARTMENT MAY REVOKE GRANT FUNDING FROM A STRATEGIC INDUSTRY PARTNERSHIP, WORKFORCE TRAINING PROGRAM, OR PARTNERSHIP MEMBER IF GOALS CONSISTENT WITH A GRANT AGREEMENT APPROVED BY THE DEPARTMENT ARE NOT MET.

(D) TO THE EXTENT PRACTICABLE AND CONSISTENT WITH RELEVANT JUDICIAL OPINIONS AND STATUTORY LAW, ANY INTELLECTUAL PROPERTY DEVELOPED AS A RESULT OF A GRANT AWARDED UNDER THE MARYLAND EARN PROGRAM SHALL REMAIN IN THE PUBLIC DOMAIN.

11–706.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, SHALL DEVELOP AND IMPLEMENT A STATE EMPLOYMENT ADVANCEMENT STRATEGY.

(B) THE STATE EMPLOYMENT ADVANCEMENT STRATEGY SHALL IDENTIFY:

(1) POSITIONS IN STATE GOVERNMENT IN NEED OF SKILLED EMPLOYEES; AND

(2) MECHANISMS TO PROVIDE INCUMBENT STATE EMPLOYEES WITH ACCESS TO SKILLS TRAINING PROGRAMS THAT RESULT IN:

(I) EMPLOYMENT ADVANCEMENT RESULTING IN TITLE PROMOTION OR WAGE PROMOTION; OR

(II) THE POTENTIAL FOR FUTURE EMPLOYMENT ADVANCEMENT AS THE RESULT OF OBTAINING A CREDENTIAL OR IDENTIFIABLE SKILL.

11–707.

THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND THE DEPARTMENT OF INFORMATION TECHNOLOGY, SHALL DEVELOP A UNIFORM AND EASILY ACCESSIBLE STATEWIDE "TRAIN MARYLAND" WEB SITE PROMOTING AVAILABLE TRAINING PROGRAMS IN THE STATE, INCLUDING THOSE AVAILABLE UNDER THE MARYLAND EARN PROGRAM.

11–708.

FOR FISCAL YEAR 2014 AND EACH FISCAL YEAR THEREAFTER, THE MARYLAND EARN PROGRAM SHALL BE FUNDED AS PROVIDED FOR IN THE STATE BUDGET.

11–709.

(A) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON THE MARYLAND EARN PROGRAM.

(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) AN IDENTIFICATION OF TRAINING NEEDS STATEWIDE, INCLUDING INDUSTRIES IN URGENT NEED OF QUALIFIED WORKERS;

(2) INFORMATION ON MEASURES BEING USED TO TRACK THE SUCCESS AND ACCOUNTABILITY OF THE MARYLAND EARN PROGRAM, INCLUDING USE OF THE STATESTAT ACCOUNTABILITY PROCESS UNDER § 3–1003(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

~~(2)~~ (3) (I) A DESCRIPTION OF EACH STRATEGIC INDUSTRY PARTNERSHIP RECEIVING GRANT FUNDING AND THE STATUS OF THE PARTNERSHIP; AND

(II) THE JURISDICTION OF THE STATE IN WHICH EACH STRATEGIC INDUSTRY PARTNERSHIP IS LOCATED;

~~(3)~~ (4) THE NUMBER OF INDIVIDUALS:

(I) ~~PARTICIPATING~~ BY SEX, RACE, NATIONAL ORIGIN, INCOME, COUNTY OF RESIDENCE, AND EDUCATIONAL ATTAINMENT,

PARTICIPATING IN EACH COMPONENT OF THE MARYLAND EARN PROGRAM; AND

(II) PARTICIPATING IN THE MARYLAND EARN PROGRAM WHO, AS A RESULT OF THE PROGRAM, HAVE OBTAINED:

1. A CREDENTIAL OR AN IDENTIFIABLE SKILL;

2. A NEW EMPLOYMENT POSITION;

3. A TITLE PROMOTION; OR

4. A WAGE ~~PROMOTION~~ PROMOTION; AND

(5) AN ASSESSMENT OF WHETHER AND TO WHAT EXTENT THE APPROVED STRATEGIC INDUSTRY PARTNERSHIPS UTILIZED EXISTING DATA CONCERNING:

(I) TRAINING NEEDS IN THE STATE IDENTIFIED IN PREVIOUS STUDIES; AND

(II) APPLICABLE SKILLS NEEDS IDENTIFIED IN EXISTING WORKFORCE STUDIES, PLANS, OR RESEARCH.

11–710.

THIS SUBTITLE MAY BE CITED AS THE "MARYLAND EARN PROGRAM".

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Labor, Licensing, and Regulation shall convene a working group of stakeholders including interested employers, nonprofits, workforce training entities, higher education institutions, community colleges, and local workforce investment boards to advise on the initial development and implementation of the Maryland EARN Program established under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Labor, Licensing, and Regulation shall provide to individuals receiving or applying for unemployment benefits information on the Maryland EARN Program, including information on how to obtain job readiness and skills training in the State.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 2

(House Bill 227)

AN ACT concerning

Maryland Employment Advancement Right Now (EARN) Program

FOR the purpose of establishing the Maryland Employment Advancement Right Now (EARN) Program (Maryland EARN Program) in the Department of Labor, Licensing, and Regulation (Department); requiring the Department, in consultation with the Department of Business and Economic Development and the Governor's Workforce Investment Board, to establish and administer the Program to provide certain grants on a competitive basis for certain purposes; requiring applications for certain grants under the Program to include certain information; authorizing certain grants to be awarded in a certain manner; requiring the grant process to give priority to certain strategic industry partnerships; authorizing the Department to adopt certain regulations; requiring the Department to monitor certain grants; authorizing the Department to impose certain requirements on certain recipients of certain grants and to revoke certain grants under certain circumstances; providing that certain intellectual property developed as a result of grants awarded under the Program remain in the public domain under certain circumstances; requiring the Department, in consultation with the Department of Budget and Management to develop and implement a certain State employment advancement strategy; requiring the Department, in consultation with the Department of Business and Economic Development and the Department of Information Technology to develop a certain Web site; providing for the funding of the Program; requiring the Department to submit a certain annual report; requiring the Department to convene a certain working group; requiring the Department to provide certain individuals with certain information; defining certain terms; and generally relating to the establishment of the Maryland Employment Advancement Right Now (EARN) Program.

BY adding to
Article – Labor and Employment
Section 11–701 through 11–710 to be under the new subtitle "Subtitle 7. Maryland Employment Advancement Right Now Program"
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, Even in the most difficult economic times, Maryland has continued to make significant investments in both the State's K–12 and higher education systems resulting in one of the most highly educated workforces in the country; and

WHEREAS, Despite these advances, many working families continue to face significant challenges in obtaining skills and credentials necessary to secure stable employment and to access opportunities for advancement in employment; and

WHEREAS, Maryland's employers and economic growth industries continue to lack skilled workers which inhibits the economic growth of the State; and

WHEREAS, Maryland's workforce development system has many excellent and highly ranked components that are often fragmented in a manner that inhibits the potential for significant economic progress in the State; and

WHEREAS, Creating a coordinated system to advance the skills of the State's workforce through a collaboration of industry, State and local governments, and nonprofits will grow Maryland's economy; and

WHEREAS, Providing access to career ladders for employment advancement and reducing barriers to employment can result in long–term improvements in the economic well–being of working families and will assist in sustaining and growing Maryland's middle class; and

WHEREAS, Maryland's ability to be competitive in the world economy will only truly improve through working collaborations of public, private, and nonprofit partners that make up the State's workforce development system; and

WHEREAS, Providing skills training for the rapid employment advancement of individuals while meeting the workforce needs of employers will promote both the prosperity of working families and economic development in the State; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

SUBTITLE 7. MARYLAND EMPLOYMENT ADVANCEMENT RIGHT NOW PROGRAM.

11–701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CREDENTIAL" MEANS A RECOGNIZED:

(1) EDUCATIONAL DIPLOMA;

(2) CERTIFICATE OR DEGREE;

(3) OCCUPATIONAL LICENSE;

(4) APPRENTICESHIP CERTIFICATE;

(5) INDUSTRY RECOGNIZED CERTIFICATION; OR

(6) AWARD FOR SKILLS ATTAINMENT AND COMPLETION, ISSUED BY AN APPROVED TRAINING PROVIDER IN THE STATE OR THIRD–PARTY CREDENTIAL PROVIDER.

(C) "HIGH–DEMAND OCCUPATION" MEANS AN OCCUPATION THAT:

(1) HAS A SIGNIFICANT PRESENCE WITHIN TARGET INDUSTRIES;

(2) IS IN DEMAND BY EMPLOYERS; AND

(3) PAYS OR LEADS TO PAYMENT OF A FAMILY SUSTAINING WAGE.

(D) "IDENTIFIABLE SKILL" MEANS THE ATTAINMENT OF PROFICIENCY IN A SPECIFIC WORK–RELATED SKILL THAT IS LIKELY TO LEAD TO FUTURE JOB ADVANCEMENT AND IMPROVEMENT IN AN INDIVIDUAL'S EARNING POTENTIAL.

(E) (1) "JOB READINESS TRAINING" MEANS TRAINING FOR THE PURPOSE OF ASSISTING AND SUPPORTING JOBSEEKERS IN OVERCOMING INDIVIDUAL BARRIERS TO EMPLOYMENT AND DEVELOPING THE SKILLS NECESSARY TO MAINTAIN EMPLOYMENT AND TO QUALIFY FOR SKILLS TRAINING OPPORTUNITIES.

(2) "JOB READINESS TRAINING" INCLUDES:

(I) OCCUPATIONAL SKILLS DEVELOPMENT;

(II) GED PREPARATION;

(III) LITERACY ADVANCEMENT;

(IV) FINANCIAL STABILITY SERVICES, INCLUDING FINANCIAL COACHING;

(V) CREDIT COUNSELING;

(VI) TRANSPORTATION; AND

(VII) CHILD CARE.

(F) "LOCAL BOARD" MEANS A LOCAL WORKFORCE INVESTMENT BOARD ESTABLISHED TO ADMINISTER SERVICES IN A WORKFORCE INVESTMENT AREA ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE.

(G) "MARYLAND EARN PROGRAM" MEANS THE MARYLAND EMPLOYMENT ADVANCEMENT RIGHT NOW PROGRAM CREATED UNDER THIS SUBTITLE.

(H) "STRATEGIC INDUSTRY PARTNERSHIP" MEANS A COLLABORATION THAT BRINGS TOGETHER A REGIONAL GROUP THAT MAY INCLUDE EMPLOYERS, NONPROFITS, INSTITUTIONS OF HIGHER EDUCATION, COMMUNITY COLLEGES, LOCAL BOARDS, LOCAL GOVERNMENTS, OR OTHER RELEVANT PARTNERS TO:

(1) IDENTIFY COMMON WORKFORCE NEEDS FOR HIGH–DEMAND OCCUPATIONS WITHIN A TARGET INDUSTRY; AND

(2) DEVELOP AND IMPLEMENT INDUSTRY STRATEGIES TO MEET THE COMMON WORKFORCE NEEDS AND SHORTAGES BASED ON REGIONAL NEEDS.

(I) "TARGET INDUSTRY" MEANS A GROUP OF EMPLOYERS CLOSELY LINKED BY A COMMON PRODUCT OR SERVICE, WORKFORCE SKILLS, SIMILAR TECHNOLOGIES, SUPPLY CHAINS, OR OTHER ECONOMIC TIES.

11–702.

(A) THERE IS A MARYLAND EMPLOYMENT ADVANCEMENT RIGHT NOW (EARN) PROGRAM IN THE DEPARTMENT.

(B) THE PURPOSE OF THE MARYLAND EARN PROGRAM IS TO CREATE INDUSTRY–LED PARTNERSHIPS TO ADVANCE THE SKILLS OF THE STATE'S WORKFORCE, GROW THE STATE'S ECONOMY, AND INCREASE SUSTAINABLE EMPLOYMENT FOR WORKING FAMILIES.

(C) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND THE GOVERNOR'S WORKFORCE INVESTMENT BOARD, SHALL ESTABLISH AND ADMINISTER THE MARYLAND EARN PROGRAM TO PROVIDE GRANTS ON A COMPETITIVE BASIS FOR:

(1) AN APPROVED STRATEGIC INDUSTRY PARTNERSHIP FOR DEVELOPMENT OF A PLAN CONSISTENT WITH THE PURPOSE OF THE MARYLAND EARN PROGRAM;

(2) WORKFORCE TRAINING PROGRAMS AND OTHER QUALIFIED PROGRAMS THAT PROVIDE INDUSTRY VALUED SKILLS TRAINING TO INDIVIDUALS THAT RESULT IN A CREDENTIAL OR IDENTIFIABLE SKILL CONSISTENT WITH AN APPROVED STRATEGIC INDUSTRY PARTNERSHIP PLAN; AND

(3) JOB READINESS TRAINING AND SKILLS TRAINING THAT RESULTS IN A CREDENTIAL OR AN IDENTIFIABLE SKILL.

11–703.

(A) AN APPLICATION FOR A STRATEGIC INDUSTRY PARTNERSHIP GRANT UNDER § 11–702(C) OF THIS SUBTITLE SHALL:

(1) INCLUDE:

(I) EVIDENCE OF SHORTAGES IN SKILLED EMPLOYMENT WITHIN THE TARGET INDUSTRY OVER A SUSTAINED PERIOD OF TIME;

(II) A DESCRIPTION OF SPECIFIC HIGH–DEMAND OCCUPATIONS OR SETS OF OCCUPATIONS WITHIN THE TARGET INDUSTRY; AND

(III) THE SPECIFICS OF TRAINING PROGRAMS THAT WOULD RESULT IN INDIVIDUALS OBTAINING CREDENTIALS OR IDENTIFIABLE SKILLS TO FACILITATE THEIR EMPLOYMENT OR ADVANCEMENT IN THE TARGETED INDUSTRY; AND

(2) IDENTIFY MEMBERS PARTICIPATING IN THE STRATEGIC INDUSTRY PARTNERSHIP AND INCLUDE IDENTIFICATION OF THE TARGET INDUSTRY AND THE PARTICIPATING LOCAL BOARD.

(B) GRANTS MAY BE AWARDED FOR SKILLS TRAINING CONSISTENT WITH AN APPROVED STRATEGIC INDUSTRY PARTNERSHIP PLAN DEVELOPED UNDER § 11–702(C) OF THIS SUBTITLE TO:

(1) INDUSTRIES WITH IDENTIFIED POSITIONS AND A DEMONSTRATED NEED FOR INCUMBENT WORKER TRAINING THAT CAN BE ACCESSED BY EMPLOYEES AT THEIR PLACE OF EMPLOYMENT OR OTHER LOCATION;

(2) INDUSTRIES WITH AN IDENTIFIED WORKFORCE SHORTAGE THAT WILL BE SEEKING TO HIRE INDIVIDUALS TO TRAIN TO MEET A SPECIFIC SKILL NEED;

(3) A MEMBER OF A STRATEGIC INDUSTRY PARTNERSHIP THAT CAN PROVIDE JOB READINESS TRAINING TO QUALIFIED INDIVIDUALS DIRECTLY OR THROUGH ACCOUNTS HELD AT LOCAL BOARDS ON BEHALF OF THE INDIVIDUAL; AND

(4) EDUCATIONAL PROVIDERS THAT OFFER TRAINING CONSISTENT WITH THE GOALS OF THE PLAN.

(C) THE COMPETITIVE GRANT PROCESS SHALL GIVE PRIORITY TO STRATEGIC INDUSTRY PARTNERSHIPS THAT MAXIMIZE THE POTENTIAL OF THE COLLABORATION THROUGH DIRECT FINANCIAL OR IN–KIND CONTRIBUTIONS BY MEMBERS OF THE TARGET INDUSTRY.

11–704.

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

11–705.

(A) THE DEPARTMENT SHALL MONITOR ALL GRANTS PROVIDED UNDER THE MARYLAND EARN PROGRAM.

(B) THE DEPARTMENT MAY REQUIRE THAT ALL RECIPIENTS OF STRATEGIC INDUSTRY PARTNERSHIP GRANTS:

(1) DEMONSTRATE AN ABILITY TO COLLABORATE SUCCESSFULLY; AND

(2) INCLUDE ADDITIONAL PROVISIONS IN A GRANT PROPOSAL TO ENSURE ACCOUNTABILITY.

(C) THE DEPARTMENT MAY REVOKE GRANT FUNDING FROM A STRATEGIC INDUSTRY PARTNERSHIP, WORKFORCE TRAINING PROGRAM, OR PARTNERSHIP MEMBER IF GOALS CONSISTENT WITH A GRANT AGREEMENT APPROVED BY THE DEPARTMENT ARE NOT MET.

(D) TO THE EXTENT PRACTICABLE AND CONSISTENT WITH RELEVANT JUDICIAL OPINIONS AND STATUTORY LAW, ANY INTELLECTUAL PROPERTY DEVELOPED AS A RESULT OF A GRANT AWARDED UNDER THE MARYLAND EARN PROGRAM SHALL REMAIN IN THE PUBLIC DOMAIN.

11–706.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, SHALL DEVELOP AND IMPLEMENT A STATE EMPLOYMENT ADVANCEMENT STRATEGY.

(B) THE STATE EMPLOYMENT ADVANCEMENT STRATEGY SHALL IDENTIFY:

(1) POSITIONS IN STATE GOVERNMENT IN NEED OF SKILLED EMPLOYEES; AND

(2) MECHANISMS TO PROVIDE INCUMBENT STATE EMPLOYEES WITH ACCESS TO SKILLS TRAINING PROGRAMS THAT RESULT IN:

(I) EMPLOYMENT ADVANCEMENT RESULTING IN TITLE PROMOTION OR WAGE PROMOTION; OR

(II) THE POTENTIAL FOR FUTURE EMPLOYMENT ADVANCEMENT AS THE RESULT OF OBTAINING A CREDENTIAL OR IDENTIFIABLE SKILL.

11–707.

THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND THE DEPARTMENT OF INFORMATION TECHNOLOGY, SHALL DEVELOP A UNIFORM AND EASILY ACCESSIBLE STATEWIDE "TRAIN MARYLAND" WEB SITE PROMOTING AVAILABLE TRAINING PROGRAMS IN THE STATE, INCLUDING THOSE AVAILABLE UNDER THE MARYLAND EARN PROGRAM.

11–708.

FOR FISCAL YEAR 2014 AND EACH FISCAL YEAR THEREAFTER, THE MARYLAND EARN PROGRAM SHALL BE FUNDED AS PROVIDED FOR IN THE STATE BUDGET.

11–709.

(A) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON THE MARYLAND EARN PROGRAM.

(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) AN IDENTIFICATION OF TRAINING NEEDS STATEWIDE, INCLUDING INDUSTRIES IN URGENT NEED OF QUALIFIED WORKERS;

(2) INFORMATION ON MEASURES BEING USED TO TRACK THE SUCCESS AND ACCOUNTABILITY OF THE MARYLAND EARN PROGRAM, INCLUDING USE OF THE STATESTAT ACCOUNTABILITY PROCESS UNDER § 3–1003(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

~~(2)~~ (3) (I) A DESCRIPTION OF EACH STRATEGIC INDUSTRY PARTNERSHIP RECEIVING GRANT FUNDING AND THE STATUS OF THE PARTNERSHIP; AND

(II) THE JURISDICTION OF THE STATE IN WHICH EACH STRATEGIC INDUSTRY PARTNERSHIP IS LOCATED;

~~(3)~~ (4) THE NUMBER OF INDIVIDUALS:

(I) ~~PARTICIPATING~~ BY SEX, RACE, NATIONAL ORIGIN, INCOME, COUNTY OF RESIDENCE, AND EDUCATIONAL ATTAINMENT, PARTICIPATING IN EACH COMPONENT OF THE MARYLAND EARN PROGRAM; AND

(II) PARTICIPATING IN THE MARYLAND EARN PROGRAM WHO, AS A RESULT OF THE PROGRAM, HAVE OBTAINED:

1. A CREDENTIAL OR AN IDENTIFIABLE SKILL;

2. A NEW EMPLOYMENT POSITION;

3. A TITLE PROMOTION; OR

4. A WAGE ~~PROMOTION~~ PROMOTION; AND

(5) AN ASSESSMENT OF WHETHER AND TO WHAT EXTENT THE APPROVED STRATEGIC INDUSTRY PARTNERSHIPS UTILIZED EXISTING DATA CONCERNING:

(I) TRAINING NEEDS IN THE STATE IDENTIFIED IN PREVIOUS STUDIES; AND

(II) APPLICABLE SKILLS NEEDS IDENTIFIED IN EXISTING WORKFORCE STUDIES, PLANS, OR RESEARCH.

11–710.

THIS SUBTITLE MAY BE CITED AS THE "MARYLAND EARN PROGRAM".

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Labor, Licensing, and Regulation shall convene a working group of stakeholders including interested employers, nonprofits, workforce training entities, higher education institutions, community colleges, and local workforce investment boards to advise on the initial development and implementation of the Maryland EARN Program established under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Labor, Licensing, and Regulation shall provide to individuals receiving or applying for unemployment benefits information on the Maryland EARN Program, including information on how to obtain job readiness and skills training in the State.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 3

(House Bill 226)

AN ACT concerning

Maryland Offshore Wind Energy Act of 2013

FOR the purpose of altering the Maryland renewable energy portfolio standard program to include a certain amount of energy derived from offshore wind energy; prohibiting the portion of the renewable energy portfolio standard that represents offshore wind energy from applying to certain sales in excess of a certain amount of industrial process load and certain sales in excess of a certain amount of electricity sold to certain customers who are owners of agricultural land; altering the definition of "renewable energy credit" for purposes of the renewable energy portfolio standard program; requiring an electricity supplier to exclude certain retail electricity sales before calculating the number of credits required under the renewable portfolio standard; providing that certain provisions concerning the transfer of renewable energy credits do not apply to certain offshore wind renewable energy credits; authorizing a person to submit to the Public Service Commission an application for approval of a proposed

offshore wind project after the effective date of certain regulations; requiring the Commission to open a certain application period and provide certain notice under certain circumstances; authorizing the Commission to provide for additional application periods; requiring the Commission to approve, conditionally approve, or deny an application within a certain time; providing for the contents of an application; requiring the Commission to use certain criteria to evaluate and compare proposed offshore wind projects; prohibiting the Commission from approving an offshore wind project unless certain criteria are met; requiring the Commission to contract for the services of independent consultants and experts when evaluating and comparing proposed offshore wind projects and when calculating a proposed offshore wind project's net benefits to the State; requiring the Commission to verify that representatives of the United States Department of Defense and the maritime industry have had a certain opportunity to express concerns regarding certain project siting; requiring an applicant to take certain steps if the applicant is seeking investors in a proposed offshore wind project; requiring the Governor's Office of Minority Affairs, in consultation with the Attorney General, to provide certain assistance to potential applicants and minority investors; requiring the Commission to apply the same net cost per megawatt–hour to residential and nonresidential customers when calculating certain rate impacts; incorporating certain findings and evidence associated with a certain Minority Business Enterprise Program; requiring that approved applicants comply with the Minority Business Enterprise Program; prohibiting the Commission from approving an application until certain goals and procedures are established; requiring that an order approving a proposed offshore wind project include certain information, restrictions, and conditions; providing that a certain order vests the owner of a qualified offshore wind project with a certain right; requiring a qualified offshore wind project to deposit a certain amount into a certain fund at certain times; requiring the Commission to determine the offshore wind energy component of the renewable portfolio standard based on certain projections and requiring electricity suppliers to purchase a certain number of offshore wind renewable energy credits; *requiring the Commission to establish the renewable energy portfolio standard obligation for ORECs on a certain basis; requiring that any positive adjustment to the renewable energy portfolio standard be made on a certain basis; requiring the Commission to adopt regulations to establish the offshore wind purchase obligation at a certain time and establish a mechanism to adjust a certain renewable energy portfolio standard obligation in a certain manner;* requiring the Commission to adopt regulations establishing a certain escrow account; requiring a certain overpayment to be refunded to ratepayers, subject to certain reserve requirements, under certain circumstances; *requiring the calculation of an electricity supplier's OREC purchase obligation to be based on certain data;* requiring a qualified offshore wind project to sell certain energy, capacity, and ancillary services into certain markets and distribute the proceeds to electric companies to be refunded or credited to ratepayers; requiring the Commission to adopt certain regulations regarding the creation of excess offshore wind renewable energy credits; authorizing the Commission to extend the term of an OREC pricing schedule for a certain amount of time

under certain circumstances; stating that an OREC transaction that takes place during an extended OREC term is subject to certain provisions and regulations applicable to the original OREC order; *prohibiting a certain debt, obligation, or liability from being considered a debt, obligation, or liability of the State;* providing that certain provisions regarding certain compliance fees do not apply to a shortfall from the offshore wind renewable energy credit requirement; reducing a certain fee for industrial process load under certain circumstances; providing that certain provisions authorizing a delay of certain scheduled Tier 1 credits do not apply to offshore wind renewable energy credits; exempting certain energy lines from a certain prohibition on construction or installation in a beach erosion control district under certain circumstances; providing that an application for a certificate of public convenience and necessity to construct certain energy lines is subject to certain review; prohibiting the Commission from approving an application for the construction or installation of certain energy lines within a certain area; requiring the Commission to provide certain notice to the Maryland Energy Administration for certain purposes; ~~authorizing the Commission to implement a special assessment not to exceed a certain amount in certain fiscal years for certain purposes;~~ requiring the transfer of certain funds to the Commission in certain fiscal years for certain costs ~~and~~*;* authorizing the Commission to implement a special assessment in certain fiscal years to recover certain costs; establishing a Maryland Offshore Wind Business Development Fund in the Maryland Energy Administration; authorizing the Fund to provide certain financial assistance, business development assistance, and employee training opportunities; stating the purpose and providing for the administration of the Fund; establishing the Maryland Offshore Wind Business Development Advisory Committee; requiring the Advisory Committee to make certain recommendations regarding the use of money in the Fund; requiring a certain transfer from a certain fund to the Fund; adding the Fund to the list of exceptions to the requirement that the earnings of special funds accrue to the General Fund; defining certain terms; making stylistic changes; requiring the Commission to open a certain evidentiary proceeding to evaluate a certain application; establishing the Clean Energy Program Task Force; 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 study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of the Task Force; *establishing the Clean Energy Technical Education Task Force; 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 study and identify certain programs and course offerings; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of the Task Force;* making the provisions of this Act severable; repealing an obsolete provision; providing for the termination of a portion of this Act under a certain

circumstance; providing for the termination of certain provisions of this Act; and generally relating to the Maryland renewable energy portfolio standard program, development of offshore wind energy projects, and qualified submerged renewable energy lines.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–208, 7–701, 7–703, 7–704(a)(2)(i), (3), and (4), (c)(3), and (e), and 7–705(b) and (f)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Public Utilities
Section 7–704.1 and 7–704.2
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–705(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1102
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to
Article – State Government
Section 9–20C–01 through 9–20C–04 to be under the new subtitle "Subtitle 20C. Maryland Offshore Wind Business Development Fund"
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)69. and 70.
Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)71.
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–704.1(e)
Annotated Code of Maryland
(2010 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 – Public Utilities

7–701.

(a) In this subtitle the following words have the meanings indicated.

(b) "Administration" means the Maryland Energy Administration.

(c) "Fund" means the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article.

[(c–1)**] (D)** "Geothermal heating and cooling system" means a system that:

(1) exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy through a geothermal heat pump or a system of geothermal heat pumps interconnected with any geothermal extraction facility that is:

(i) a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment; or

(ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source;

(2) meets or exceeds the current federal Energy Star product specification standards;

(3) replaces or displaces inefficient space or water heating systems whose primary fuel is electricity or a nonnatural gas fuel source;

(4) replaces or displaces inefficient space cooling systems that do not meet federal Energy Star product specification standards;

(5) is manufactured, installed, and operated in accordance with applicable government and industry standards; and

(6) does not feed electricity back to the grid.

[(d)**] (E)** "Industrial process load" means the consumption of electricity by a manufacturing process at an establishment classified in the manufacturing sector under the North American Industry Classification System, Codes 31 through 33.

(F) "OFFSHORE WIND ENERGY" MEANS ENERGY GENERATED BY A QUALIFIED OFFSHORE WIND PROJECT.

[(e)**] (G)** "Old growth timber" means timber from a forest:

(1) at least 5 acres in size with a preponderance of old trees, of which the oldest exceed at least half the projected maximum attainable age for the species; and

(2) that exhibits several of the following characteristics:

(i) shade–tolerant species are present in all age and size classes;

(ii) randomly distributed canopy gaps are present;

(iii) a high degree of structural diversity characterized by multiple growth layers reflecting a broad spectrum of ages is present;

(iv) an accumulation of dead wood of varying sizes and stages of decomposition accompanied by decadence in live dominant trees is present; and

(v) pit and mound topography can be observed.

(H) "OFFSHORE WIND RENEWABLE ENERGY CREDIT" OR "OREC" MEANS A RENEWABLE ENERGY CREDIT EQUAL TO THE GENERATION ATTRIBUTES OF 1 MEGAWATT–HOUR OF ELECTRICITY THAT IS DERIVED FROM OFFSHORE WIND ENERGY.

[(f)**] (I)** "PJM region" means the control area administered by the PJM Interconnection, **[**Inc.,**]** as the area may change from time to time.

[(g)**] (J)** "Poultry litter" means the fecal and urinary excretions of poultry, including wood shavings, sawdust, straw, rice hulls, and other bedding material for the disposition of manure.

(K) "QUALIFIED OFFSHORE WIND PROJECT" MEANS A WIND TURBINE ELECTRICITY GENERATION FACILITY, INCLUDING THE ASSOCIATED TRANSMISSION–RELATED INTERCONNECTION FACILITIES AND EQUIPMENT, THAT:

(1) IS LOCATED ON THE OUTER CONTINENTAL SHELF OF THE ATLANTIC OCEAN IN AN AREA THAT:

(I) THE UNITED STATES DEPARTMENT OF THE INTERIOR DESIGNATES FOR LEASING AFTER COORDINATION AND CONSULTATION WITH THE STATE IN ACCORDANCE WITH § 388(A) OF THE ENERGY POLICY ACT OF 2005; AND

(II) IS BETWEEN 10 AND 30 MILES OFF THE COAST OF THE STATE;

(2) INTERCONNECTS TO THE PJM INTERCONNECTION GRID AT A POINT LOCATED ON THE DELMARVA PENINSULA; AND

(3) THE COMMISSION APPROVES UNDER § 7–704.1 OF THIS SUBTITLE.

[(h)**] (L)** (1) "Qualifying biomass" means a nonhazardous, organic material that is available on a renewable or recurring basis, and is:

(i) waste material that is segregated from inorganic waste material and is derived from sources including:

1. except for old growth timber, any of the following forest–related resources:

A. mill residue, except sawdust and wood shavings;

B. precommercial soft wood thinning;

C. slash;

D. brush; or

E. yard waste;

2. a pallet, crate, or dunnage;

3. agricultural and silvicultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by–products or residues; or

4. gas produced from the anaerobic decomposition of animal waste or poultry waste; or

(ii) a plant that is cultivated exclusively for purposes of being used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.

(2) "Qualifying biomass" includes biomass listed in paragraph (1) of this subsection that is used for co–firing, subject to § 7–704(d) of this subtitle.

(3) "Qualifying biomass" does not include:

(i) unsegregated solid waste or postconsumer wastepaper; or

(ii) an invasive exotic plant species.

[(h–1)**] (M)** "Thermal biomass system" means a system that:

(1) uses:

(i) primarily animal manure, including poultry litter, and associated bedding to generate thermal energy; and

(ii) food waste or qualifying biomass for the remainder of the feedstock;

(2) is used in the State; and

(3) complies with all applicable State and federal statutes and regulations, as determined by the appropriate regulatory authority.

[(i)**] (N)** "Renewable energy credit" or "credit" means a credit equal to the generation attributes of 1 megawatt–hour of electricity that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:

(1) in the PJM region; **[**or**]**

(2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region**; OR**

(3) ON THE OUTER CONTINENTAL SHELF OF THE ATLANTIC OCEAN IN AN AREA THAT:

(I) THE UNITED STATES DEPARTMENT OF THE INTERIOR DESIGNATES FOR LEASING AFTER COORDINATION AND CONSULTATION WITH THE STATE IN ACCORDANCE WITH § 388(A) OF THE ENERGY POLICY ACT OF 2005; AND

(II) IS BETWEEN 10 AND 30 MILES OFF THE COAST OF THE STATE.

[(j)**] (O)** "Renewable energy portfolio standard" or "standard" means the percentage of electricity sales at retail in the State that is to be derived from Tier 1 renewable sources and Tier 2 renewable sources in accordance with § 7–703(b) of this subtitle.

[(k)**] (P)** "Renewable on–site generator" means a person who generates electricity on site from a Tier 1 renewable source or a Tier 2 renewable source for the person's own use.

[(k–1)**] (Q)** (1) "Solar water heating system" means a system that:

(i) is comprised of glazed liquid–type flat–plate or tubular solar collectors as defined and certified to the OG–100 standard of the Solar Ratings and Certification Corporation;

(ii) generates energy using solar radiation for the purpose of heating water; and

(iii) does not feed electricity back to the electric grid.

(2) "Solar water heating system" does not include a system that generates energy using solar radiation for the sole purpose of heating a hot tub or swimming pool.

[(l)**] (R)** "Tier 1 renewable source" means one or more of the following types of energy sources:

(1) solar energy, including energy from photovoltaic technologies and solar water heating systems;

(2) wind;

(3) qualifying biomass;

(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;

(5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;

(6) ocean, including energy from waves, tides, currents, and thermal differences;

(7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection;

(8) a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;

(9) poultry litter–to–energy;

(10) waste–to–energy;

(11) refuse–derived fuel; and

(12) thermal energy from a thermal biomass system.

[(m)**] (S)** "Tier 2 renewable source" means hydroelectric power other than pump storage generation.

7–703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under **[**paragraph (2)**] PARAGRAPHS (2) AND (3)** of this subsection, applies to all retail electricity sales in the State by electricity suppliers.

(ii) If the standard becomes applicable to electricity sold to a customer after the start of a calendar year, the standard does not apply to electricity sold to the customer during that portion of the year before the standard became applicable.

(2) A renewable energy portfolio standard may not apply to electricity sales at retail by any electricity supplier:

(i) in excess of 300,000,000 kilowatt–hours of industrial process load to a single customer in a year;

(ii) to residential customers in a region of the State in which electricity prices for residential customers are subject to a freeze or cap contained in a

settlement agreement entered into under § 7–505 of this title until the freeze or cap has expired; or

(iii) to a customer served by an electric cooperative under an electricity supplier purchase agreement that existed on October 1, 2004, until the expiration of the agreement.

(3) THE PORTION OF A RENEWABLE ENERGY PORTFOLIO STANDARD THAT REPRESENTS OFFSHORE WIND ENERGY MAY NOT APPLY TO ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER IN EXCESS OF:

(I) 75,000,000 KILOWATT–HOURS OF INDUSTRIAL PROCESS LOAD TO A SINGLE CUSTOMER IN A YEAR; AND

(II) 3,000 KILOWATT–HOURS OF ELECTRICITY IN A MONTH TO A CUSTOMER WHO IS AN OWNER OF AGRICULTURAL LAND AND FILES AN INTERNAL REVENUE SERVICE FORM 1040, SCHEDULE F.

(b) The renewable energy portfolio standard shall be as follows:

(1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(3) in 2008, 2.005% from Tier 1 renewable sources, including at least 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(4) in 2009, 2.01% from Tier 1 renewable sources, including at least 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(5) in 2010, 3.025% from Tier 1 renewable sources, including at least 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(6) in 2011, 5.0% from Tier 1 renewable sources, including at least 0.05% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(7) in 2012, 6.5% from Tier 1 renewable sources, including at least 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(8) in 2013, 8.2% from Tier 1 renewable sources, including at least 0.25% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(9) in 2014, 10.3% from Tier 1 renewable sources, including at least 0.35% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(10) in 2015, 10.5% from Tier 1 renewable sources, including at least 0.5% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(11) in 2016, 12.7% from Tier 1 renewable sources, including at least 0.7% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(12) in 2017**[**,**]:**

(I) 13.1% from Tier 1 renewable sources, including**:**

1. at least 0.95% derived from solar energy**[**, and**]; AND**

2. AN AMOUNT SET BY THE COMMISSION UNDER § 7–704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY; AND

(II) 2.5% from Tier 2 renewable sources;

(13) in 2018**[**,**]:**

(I) 15.8% from Tier 1 renewable sources, including**:**

1. at least 1.4% derived from solar energy**[**, and**]; AND**

2. AN AMOUNT SET BY THE COMMISSION UNDER § 7–704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY; AND

(II) 2.5% from Tier 2 renewable sources;

(14) in 2019, 17.4% from Tier 1 renewable sources, including**:**

(I) at least 1.75% derived from solar energy**[**, and 0% from Tier 2 renewable sources**]**; **AND**

(II) AN AMOUNT SET BY THE COMMISSION UNDER § 7–704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY;

(15) in 2020, 18% from Tier 1 renewable sources, including**:**

(I) at least 2.0% derived from solar energy**[**, and 0% from Tier 2 renewable sources**]**; **AND**

(II) AN AMOUNT SET BY THE COMMISSION UNDER § 7–704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY;

(16) in 2021, 18.7% from Tier 1 renewable sources, including**:**

(I) at least 2.0% derived from solar energy**[**, and 0% from Tier 2 renewable sources**]**; and

(II) AN AMOUNT SET BY THE COMMISSION UNDER § 7–704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY; AND

(17) in 2022 and later, 20% from Tier 1 renewable sources, including**:**

(I) at least 2% derived from solar energy**[**, and 0% from Tier 2 renewable sources**]; AND**

(II) AN AMOUNT SET BY THE COMMISSION UNDER § 7–704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE WIND ENERGY.

(c) Before calculating the number of credits required to meet the percentages established under subsection (b) of this section, an electricity supplier shall exclude from its total retail electricity sales all retail electricity sales described in subsection (a)(2) **AND (3)** of this section.

(d) Subject to subsections (a) and (c) of this section **AND IN ACCORDANCE WITH § 7–704.2 OF THIS SUBTITLE**, an electricity supplier shall meet the renewable energy portfolio standard by accumulating the equivalent amount of renewable energy credits that equal the percentages required under this section.

7–704.

(a) (2) (i) **[**1. Except as provided in subsubparagraph 2 of this subparagraph, energy**]** **ENERGY** from a Tier 1 renewable source under **[**§ 7–701(l)(1)**]** **§ 7–701(R)(1)**, (5), (9), (10), or (11) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard only if the source is connected with the electric distribution grid serving Maryland.

[2. On or before December 31, 2011, energy from a Tier 1 renewable source under § 7–701(l)(1) of this subtitle that is not connected with the electric distribution grid serving Maryland is eligible for inclusion in meeting the renewable energy portfolio standard only if offers for solar credits from Maryland grid

sources are not made to the electricity supplier that would satisfy requirements under the standard and only to the extent that such offers are not made.**]**

(3) Energy from a Tier 1 renewable source under § **[**7–701(l)(8)**] 7–701(R)(8)** of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard if it is generated at a dam that existed as of January 1, 2004, even if a system or facility that is capable of generating electricity did not exist on that date.

(4) Energy from a Tier 2 renewable source under § **[**7–701(m)**] 7–701(S)** of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard through 2018 if it is generated at a system or facility that existed and was operational as of January 1, 2004, even if the facility or system was not capable of generating electricity on that date.

(c) (3) On or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from methane under § **[**7–701(l)(4)**] 7–701(R)(4)** of this subtitle.

(e) (1) In this subsection, "customer" means:

(i) an industrial electric customer that is not on standard offer service; or

(ii) a renewable on–site generator.

(2) THIS SUBSECTION DOES NOT APPLY TO OFFSHORE WIND RENEWABLE ENERGY CREDITS.

[(2)**] (3)** (i) A customer may independently acquire renewable energy credits to satisfy the standards applicable to the customer's load, including credits created by a renewable on–site generator.

(ii) Credits that a customer transfers to its electricity supplier to meet the standard and that the electricity supplier relies on in submitting its compliance report may not be resold or retransferred by the customer or by the electricity supplier.

[(3)**] (4)** A renewable on–site generator may retain or transfer at its sole option any credits created by the renewable on–site generator, including credits for the portion of its on–site generation from a Tier 1 renewable source or a Tier 2 renewable source that displaces the purchase of electricity by the renewable on–site generator from the grid.

[(4)**] (5)** A customer that satisfies the standard applicable to the customer's load under this subsection may not be required to contribute to a compliance fee recovered under § 7–706 of this subtitle.

[(5)**] (6)** The Commission shall adopt regulations governing the application and transfer of credits under this subsection consistent with federal law.

7–704.1.

(A) (1) AFTER THE EFFECTIVE DATE OF COMMISSION REGULATIONS IMPLEMENTING THIS SECTION AND § 7–704.2 OF THIS SUBTITLE, A PERSON MAY SUBMIT AN APPLICATION TO THE COMMISSION FOR APPROVAL OF A PROPOSED OFFSHORE WIND PROJECT.

(2) (I) ON RECEIPT OF THE APPLICATION FOR APPROVAL OF A QUALIFIED OFFSHORE WIND PROJECT, THE COMMISSION SHALL:

1. OPEN AN APPLICATION PERIOD WHEN OTHER INTERESTED PERSONS MAY SUBMIT APPLICATIONS FOR APPROVAL OF QUALIFIED OFFSHORE WIND PROJECTS; AND

2. PROVIDE NOTICE THAT THE COMMISSION IS ACCEPTING APPLICATIONS FOR APPROVAL OF QUALIFIED OFFSHORE WIND PROJECTS.

(II) THE COMMISSION SHALL SET THE CLOSING DATE FOR THE APPLICATION PERIOD TO BE NO SOONER THAN 90 DAYS AFTER THE NOTICE PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(3) IN ITS DISCRETION, THE COMMISSION MAY PROVIDE FOR ADDITIONAL APPLICATION PERIODS.

(B) UNLESS EXTENDED BY MUTUAL CONSENT OF THE PARTIES, THE COMMISSION SHALL APPROVE, CONDITIONALLY APPROVE, OR DENY AN APPLICATION WITHIN 180 DAYS AFTER THE CLOSE OF THE APPLICATION PERIOD.

(C) AN APPLICATION SHALL INCLUDE:

(1) A DETAILED DESCRIPTION AND FINANCIAL ANALYSIS OF THE OFFSHORE WIND PROJECT;

(2) THE PROPOSED METHOD OF FINANCING THE OFFSHORE WIND PROJECT, INCLUDING DOCUMENTATION DEMONSTRATING THAT THE APPLICANT HAS APPLIED FOR ALL CURRENT ELIGIBLE STATE AND FEDERAL GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER PROGRAMS

AVAILABLE TO OFFSET THE COST OF THE PROJECT OR PROVIDE TAX ADVANTAGES;

(3) A COST–BENEFIT ANALYSIS THAT SHALL INCLUDE AT A MINIMUM:

(I) A DETAILED INPUT–OUTPUT ANALYSIS OF THE IMPACT OF THE OFFSHORE WIND PROJECT ON INCOME, EMPLOYMENT, WAGES, AND TAXES IN THE STATE WITH PARTICULAR EMPHASIS ON IN–STATE MANUFACTURING EMPLOYMENT;

(II) DETAILED INFORMATION CONCERNING ASSUMED EMPLOYMENT IMPACTS IN THE STATE, INCLUDING THE EXPECTED DURATION OF EMPLOYMENT OPPORTUNITIES, THE SALARY OF EACH POSITION, AND OTHER SUPPORTING EVIDENCE OF EMPLOYMENT IMPACTS;

(III) AN ANALYSIS OF THE ANTICIPATED ENVIRONMENTAL BENEFITS, HEALTH BENEFITS, AND ENVIRONMENTAL IMPACTS OF THE OFFSHORE WIND PROJECT TO THE CITIZENS OF THE STATE;

(IV) AN ANALYSIS OF ANY IMPACT ON RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL RATEPAYERS OVER THE LIFE OF THE OFFSHORE WIND PROJECT;

(V) AN ANALYSIS OF ANY LONG–TERM EFFECT ON ENERGY AND CAPACITY MARKETS AS A RESULT OF THE PROPOSED OFFSHORE WIND PROJECT; ~~AND~~

(VI) AN ANALYSIS OF ANY IMPACT ON BUSINESSES IN THE STATE; AND

~~(VI)~~ *(VII)* OTHER BENEFITS, SUCH AS INCREASED IN–STATE CONSTRUCTION, OPERATIONS, MAINTENANCE, AND EQUIPMENT PURCHASE;

(4) A PROPOSED OREC PRICING SCHEDULE FOR THE OFFSHORE WIND PROJECT THAT SHALL SET A PRICE FOR THE GENERATION ATTRIBUTES, INCLUDING THE ENERGY, CAPACITY, ANCILLARY SERVICES, AND ENVIRONMENTAL ATTRIBUTES;

(5) A DECOMMISSIONING PLAN FOR THE PROJECT, INCLUDING PROVISIONS FOR DECOMMISSIONING AS REQUIRED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR;

(6) A COMMITMENT TO:

(I) ABIDE BY THE REQUIREMENTS SET FORTH IN SUBSECTION (E) OF THIS SECTION; AND

(II) DEPOSIT AT LEAST $6,000,000, IN THE MANNER REQUIRED UNDER SUBSECTION (G) OF THIS SECTION, INTO THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND ESTABLISHED UNDER § 9–20C–03 OF THE STATE GOVERNMENT ARTICLE;

(7) A DESCRIPTION OF THE APPLICANT'S PLAN FOR ENGAGING SMALL BUSINESSES, AS DEFINED IN § 14–501 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(8) A COMMITMENT THAT THE APPLICANT WILL:

(I) USE BEST EFFORTS TO APPLY FOR ALL ELIGIBLE STATE AND FEDERAL GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER SIMILAR BENEFITS AS THOSE BENEFITS BECOME AVAILABLE; AND

(II) PASS ALONG TO RATEPAYERS, WITHOUT THE NEED FOR ANY SUBSEQUENT COMMISSION APPROVAL, 80% OF THE VALUE OF ANY STATE OR FEDERAL GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER SIMILAR BENEFITS RECEIVED BY THE PROJECT AND NOT INCLUDED IN THE APPLICATION; AND

(9) ANY OTHER INFORMATION THE COMMISSION REQUIRES.

(D) (1) THE COMMISSION SHALL USE THE FOLLOWING CRITERIA TO EVALUATE AND COMPARE PROPOSED OFFSHORE WIND PROJECTS:

(I) LOWEST COST IMPACT ON RATEPAYERS OF THE PRICE SET UNDER A PROPOSED OREC PRICING SCHEDULE;

(II) POTENTIAL REDUCTIONS IN TRANSMISSION CONGESTION PRICES WITHIN THE STATE;

(III) POTENTIAL CHANGES IN CAPACITY PRICES WITHIN THE STATE;

(IV) POTENTIAL REDUCTIONS IN LOCATIONAL MARGINAL PRICING;

(V) POTENTIAL LONG–TERM CHANGES IN CAPACITY PRICES WITHIN THE STATE FROM THE OFFSHORE WIND PROJECT AS IT COMPARES TO CONVENTIONAL ENERGY SOURCES;

(VI) THE EXTENT TO WHICH THE COST–BENEFIT ANALYSIS SUBMITTED UNDER SUBSECTION (C)(3) OF THIS SECTION DEMONSTRATES POSITIVE NET ECONOMIC, ENVIRONMENTAL, AND HEALTH BENEFITS TO THE STATE;

(VII) THE EXTENT TO WHICH AN APPLICANT'S PLAN FOR ENGAGING SMALL BUSINESSES MEETS THE GOALS SPECIFIED IN TITLE 14, SUBTITLE 5 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(VIII) THE EXTENT TO WHICH AN APPLICANT'S PLAN PROVIDES FOR THE USE OF SKILLED LABOR, PARTICULARLY WITH REGARD TO THE CONSTRUCTION AND MANUFACTURING COMPONENTS OF THE PROJECT, THROUGH OUTREACH, HIRING, OR REFERRAL SYSTEMS THAT ARE AFFILIATED WITH REGISTERED APPRENTICESHIP PROGRAMS UNDER TITLE 11, SUBTITLE 4 OF THE LABOR AND EMPLOYMENT ARTICLE;

(IX) THE EXTENT TO WHICH AN APPLICANT'S PLAN PROVIDES FOR THE USE OF AN AGREEMENT DESIGNED TO ENSURE THE USE OF SKILLED LABOR AND TO PROMOTE THE PROMPT, EFFICIENT, AND SAFE COMPLETION OF THE PROJECT, PARTICULARLY WITH REGARD TO THE CONSTRUCTION, MANUFACTURING, AND MAINTENANCE OF THE PROJECT;

(X) THE EXTENT TO WHICH AN APPLICANT'S PLAN PROVIDES FOR COMPENSATION TO ITS EMPLOYEES AND SUBCONTRACTORS CONSISTENT WITH WAGES OUTLINED UNDER §§ 17–201 THROUGH 17–228 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(XI) SITING AND PROJECT FEASIBILITY;

(XII) THE EXTENT TO WHICH THE PROPOSED OFFSHORE WIND PROJECT WOULD REQUIRE TRANSMISSION OR DISTRIBUTION INFRASTRUCTURE IMPROVEMENTS IN THE STATE;

~~(XII)~~ *(XIII)* ESTIMATED ABILITY TO ASSIST IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7–703 OF THIS SUBTITLE; AND

~~(XIII)~~ *(XIV)* ANY OTHER CRITERIA THAT THE COMMISSION DETERMINES TO BE APPROPRIATE.

(2) IN EVALUATING AND COMPARING AN APPLICANT'S PROPOSED OFFSHORE WIND PROJECT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL CONTRACT FOR THE SERVICES OF INDEPENDENT CONSULTANTS AND EXPERTS.

(3) THE COMMISSION SHALL VERIFY THAT REPRESENTATIVES OF THE UNITED STATES DEPARTMENT OF DEFENSE AND THE MARITIME INDUSTRY HAVE HAD THE OPPORTUNITY, THROUGH THE FEDERAL LEASING PROCESS, TO EXPRESS CONCERNS REGARDING PROJECT SITING.

(4) (I) IN THIS PARAGRAPH, "MINORITY" MEANS AN INDIVIDUAL WHO IS A MEMBER OF ANY OF THE GROUPS LISTED IN § 14–301(J)(1)(I) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(II) IF AN APPLICANT IS SEEKING INVESTORS IN A PROPOSED OFFSHORE WIND PROJECT, IT SHALL TAKE THE FOLLOWING STEPS BEFORE THE COMMISSION MAY APPROVE THE PROPOSED PROJECT:

1. MAKE SERIOUS, GOOD–FAITH EFFORTS TO SOLICIT AND INTERVIEW A REASONABLE NUMBER OF MINORITY INVESTORS;

2. AS PART OF THE APPLICATION, SUBMIT A STATEMENT TO THE COMMISSION THAT LISTS THE NAMES AND ADDRESSES OF ALL MINORITY INVESTORS INTERVIEWED AND WHETHER OR NOT ANY OF THOSE INVESTORS HAVE PURCHASED AN EQUITY SHARE IN THE ENTITY SUBMITTING AN APPLICATION; AND

3. AS A CONDITION TO THE COMMISSION'S APPROVAL OF THE OFFSHORE WIND PROJECT, SIGN A MEMORANDUM OF UNDERSTANDING WITH THE COMMISSION THAT REQUIRES THE APPLICANT TO AGAIN MAKE SERIOUS, GOOD–FAITH EFFORTS TO INTERVIEW MINORITY INVESTORS IN ANY FUTURE ATTEMPTS TO RAISE VENTURE CAPITAL OR ATTRACT NEW INVESTORS TO THE OFFSHORE WIND PROJECT.

(III) THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL, SHALL PROVIDE ASSISTANCE TO ALL POTENTIAL APPLICANTS AND POTENTIAL MINORITY INVESTORS TO SATISFY THE REQUIREMENTS UNDER SUBPARAGRAPH (II)1 AND 3 OF THIS PARAGRAPH.

(E) (1) THE COMMISSION MAY NOT APPROVE AN APPLICANT'S PROPOSED OFFSHORE WIND PROJECT UNLESS:

(I) THE PROPOSED OFFSHORE WIND PROJECT DEMONSTRATES POSITIVE NET ECONOMIC, ENVIRONMENTAL, AND HEALTH BENEFITS TO THE STATE, BASED ON THE CRITERIA SPECIFIED IN SUBSECTION (C)(3) OF THIS SECTION;

(II) THE PROJECTED NET RATE IMPACT FOR AN AVERAGE RESIDENTIAL CUSTOMER, BASED ON ANNUAL CONSUMPTION OF 12,000 KILOWATT–HOURS, COMBINED WITH THE PROJECTED NET RATE IMPACT OF OTHER QUALIFIED OFFSHORE WIND PROJECTS, DOES NOT EXCEED $1.50 PER MONTH IN 2012 DOLLARS, OVER THE DURATION OF THE PROPOSED OREC PRICING SCHEDULE;

(III) THE PROJECTED NET RATE IMPACT FOR ALL NONRESIDENTIAL CUSTOMERS CONSIDERED AS A BLENDED AVERAGE, COMBINED WITH THE PROJECTED NET RATE IMPACT OF OTHER QUALIFIED OFFSHORE WIND PROJECTS, DOES NOT EXCEED 1.5% OF NONRESIDENTIAL CUSTOMERS' TOTAL ANNUAL ELECTRIC BILLS, OVER THE DURATION OF THE PROPOSED OREC PRICING SCHEDULE; AND

(IV) THE PRICE SET IN THE PROPOSED OREC PRICE SCHEDULE DOES NOT EXCEED $190 PER MEGAWATT–HOUR IN 2012 DOLLARS.

(2) (I) WHEN CALCULATING THE NET BENEFITS TO THE STATE UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSION SHALL CONTRACT FOR THE SERVICES OF INDEPENDENT CONSULTANTS AND EXPERTS.

(II) WHEN CALCULATING THE PROJECTED NET AVERAGE RATE IMPACTS UNDER PARAGRAPH (1)(II) AND (III) OF THIS SUBSECTION, THE COMMISSION SHALL APPLY THE SAME NET OREC COST PER MEGAWATT–HOUR TO RESIDENTIAL AND NONRESIDENTIAL CUSTOMERS.

(F) (1) AN ORDER THE COMMISSION ISSUES APPROVING A PROPOSED OFFSHORE WIND PROJECT SHALL:

(I) SPECIFY THE OREC PRICE SCHEDULE, WHICH MAY NOT AUTHORIZE AN OREC PRICE GREATER THAN $190 PER MEGAWATT–HOUR IN 2012 DOLLARS;

(II) SPECIFY THE DURATION OF THE OREC PRICING SCHEDULE, NOT TO EXCEED 20 YEARS;

(III) SPECIFY THE NUMBER OF ORECS THE OFFSHORE WIND PROJECT MAY SELL EACH YEAR; ~~AND~~

(IV) PROVIDE THAT:

1. A PAYMENT MAY NOT BE MADE FOR AN OREC UNTIL ELECTRICITY SUPPLY IS GENERATED BY THE OFFSHORE WIND PROJECT; AND

2. RATEPAYERS, *PURCHASERS OF ORECS,* AND THE STATE SHALL BE HELD HARMLESS FOR ANY COST OVERRUNS ASSOCIATED WITH THE OFFSHORE WIND PROJECT*; AND*

(V) REQUIRE THAT ANY DEBT INSTRUMENT ISSUED IN CONNECTION WITH A QUALIFIED OFFSHORE WIND PROJECT INCLUDE LANGUAGE SPECIFYING THAT THE DEBT INSTRUMENT DOES NOT ESTABLISH A DEBT, OBLIGATION, OR LIABILITY OF THE STATE.

(2) AN ORDER APPROVING A PROPOSED OFFSHORE WIND PROJECT VESTS THE OWNER OF THE QUALIFIED OFFSHORE WIND PROJECT WITH THE RIGHT TO RECEIVE PAYMENTS FOR ORECS ACCORDING TO THE TERMS IN THE ORDER.

(G) (1) WITHIN 60 DAYS AFTER THE COMMISSION APPROVES THE APPLICATION OF A PROPOSED OFFSHORE WIND PROJECT, THE QUALIFIED OFFSHORE WIND PROJECT SHALL DEPOSIT $2,000,000 INTO THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND ESTABLISHED UNDER § 9–20C–03 OF THE STATE GOVERNMENT ARTICLE.

(2) WITHIN 1 YEAR AFTER THE INITIAL DEPOSIT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED OFFSHORE WIND PROJECT SHALL DEPOSIT AN ADDITIONAL $2,000,000 INTO THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.

(3) WITHIN 2 YEARS AFTER THE INITIAL DEPOSIT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED OFFSHORE WIND PROJECT SHALL DEPOSIT AN ADDITIONAL $2,000,000 INTO THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.

7–704.2.

(A) *(1)* THE COMMISSION SHALL DETERMINE THE OFFSHORE WIND ENERGY COMPONENT OF THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7–703(B)(12) THROUGH (17) OF THIS SUBTITLE BASED ON THE PROJECTED ANNUAL CREATION OF ORECS BY QUALIFIED OFFSHORE WIND PROJECTS.

(2) THE COMMISSION SHALL ESTABLISH THE RENEWABLE ENERGY PORTFOLIO STANDARD OBLIGATION FOR ORECS ON A FORWARD–LOOKING BASIS THAT INCLUDES A SURPLUS TO ACCOMMODATE REASONABLE FORECASTING ERROR IN ESTIMATING OVERALL ELECTRICITY SALES IN THE STATE.

(3) ANY POSITIVE ADJUSTMENT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD SHALL BE ON A FORWARD–LOOKING BASIS AND SUFFICIENTLY IN ADVANCE TO ALLOW OREC PURCHASERS TO REFLECT OREC COSTS IN RETAIL PRICES OFFERED TO CONSUMERS.

(4) THE COMMISSION SHALL ADOPT REGULATIONS THAT ESTABLISH:

(I) THE OFFSHORE WIND PURCHASE OBLIGATION SUFFICIENTLY IN ADVANCE TO ALLOW OREC PURCHASERS TO REFLECT OREC COSTS IN RETAIL PRICES OFFERED TO CONSUMERS; AND

(II) A MECHANISM TO ADJUST THE RENEWABLE ENERGY PORTFOLIO STANDARD OBLIGATION IN A GIVEN YEAR TO ACCOMMODATE A SHORTFALL OF ORECS IN ONE OR MORE EARLIER YEARS THAT IS THE RESULT OF THE VARIATION BETWEEN THE QUANTITY OF ORECS CALCULATED FROM THE RENEWABLE ENERGY PORTFOLIO STANDARD OBLIGATION AND THE QUANTITY OF ORECS APPROVED IN THE COMMISSION ORDER FOR THE SAME YEARS.

(B) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING AN ESCROW ACCOUNT UNDER COMMISSION SUPERVISION AND DEFINING RULES THAT FACILITATE AND ENSURE THE SECURE AND TRANSPARENT TRANSFER OF REVENUES AND ORECS AMONG THE PARTIES.

(C) (1) EACH ELECTRICITY SUPPLIER SHALL PURCHASE FROM THE ESCROW ACCOUNT ESTABLISHED UNDER THIS SECTION THE NUMBER OF ORECS REQUIRED TO SATISFY THE OFFSHORE WIND ENERGY COMPONENT OF THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7–703(B)(12) THROUGH (17) OF THIS SUBTITLE.

(2) *(I)* SUBJECT TO ANY ESCROW ACCOUNT RESERVE REQUIREMENT THE COMMISSION ESTABLISHES, IF THERE ARE INSUFFICIENT ORECS AVAILABLE TO SATISFY THE SUPPLIERS' OREC OBLIGATION, THE OVERPAYMENT SHALL BE DISTRIBUTED TO ELECTRIC COMPANIES TO BE REFUNDED OR CREDITED TO EACH RATEPAYER BASED ON THE RATEPAYER'S CONSUMPTION OF ELECTRICITY SUPPLY THAT IS SUBJECT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD.

(II) SUBJECT TO ANY ESCROW ACCOUNT RESERVE REQUIREMENT THE COMMISSION ESTABLISHES, THE CALCULATION OF AN ELECTRICITY SUPPLIER'S OREC PURCHASE OBLIGATION SHALL BE BASED ON FINAL ELECTRICITY SALES DATA AS REPORTED BY THE PJM INTERCONNECTION AS MEASURED AT THE CUSTOMER METER.

(3) FOR EACH OREC FOR WHICH A QUALIFIED OFFSHORE WIND PROJECT RECEIVES PAYMENT, A QUALIFIED OFFSHORE WIND PROJECT SHALL:

(I) SELL ALL ENERGY, CAPACITY, AND ANCILLARY SERVICES ASSOCIATED WITH THE CREATION OF ORECS INTO THE MARKETS OPERATED BY PJM INTERCONNECTION; AND

(II) DISTRIBUTE THE PROCEEDS RECEIVED FROM THE SALES TO PJM INTERCONNECTION MARKETS, UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO ELECTRIC COMPANIES TO BE REFUNDED OR CREDITED TO EACH RATEPAYER BASED ON THE RATEPAYER'S CONSUMPTION OF ELECTRICITY SUPPLY THAT IS SUBJECT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD.

(4) NOTWITHSTANDING § 7–709 OF THIS SUBTITLE, THE COMMISSION SHALL ADOPT REGULATIONS REGARDING THE TRANSFER AND EXPIRATION OF ORECS CREATED BY A QUALIFIED OFFSHORE WIND PROJECT IN EXCESS OF THE OREC PRICING SCHEDULE.

(D) (1) IF, WITHIN 2 YEARS BEFORE THE EXPIRATION OF AN OREC TERM, A QUALIFIED OFFSHORE WIND PROJECT IS ANTICIPATED TO RECEIVE PJM REVENUES GREATER THAN THE PROJECT OPERATING COSTS FOR THE 5 YEARS IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM OF THE OREC PRICING SCHEDULE, THE COMMISSION MAY EXTEND THE TERM OF THE OREC PRICING SCHEDULE FOR AN ADDITIONAL 5 YEARS AT AN OREC PRICE THAT EQUALS ONE–HALF OF THE SUM OF:

(I) ANTICIPATED MARKET REVENUES GENERATED BY THE PROJECT DURING THE ADDITIONAL 5–YEAR PERIOD; AND

(II) ANTICIPATED PROJECT OPERATING COSTS DURING THE ADDITIONAL 5–YEAR PERIOD.

(2) IF, WITHIN 2 YEARS BEFORE THE EXPIRATION OF AN ADDITIONAL 5–YEAR TERM EXTENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A QUALIFIED OFFSHORE WIND PROJECT IS ANTICIPATED TO RECEIVE PJM REVENUES GREATER THAN THE PROJECT OPERATING COSTS FOR THE 5 YEARS IMMEDIATELY FOLLOWING THE EXPIRATION OF THE ADDITIONAL

5–YEAR TERM, THE COMMISSION MAY EXTEND THE TERM OF THE OREC PRICING SCHEDULE FOR AN ADDITIONAL 5 YEARS AT AN OREC PRICE THAT EQUALS ONE–HALF OF THE SUM OF:

(I) ANTICIPATED MARKET REVENUES GENERATED BY THE PROJECT DURING THE ADDITIONAL 5–YEAR PERIOD; AND

(II) ANTICIPATED PROJECT OPERATING COSTS DURING THE ADDITIONAL 5–YEAR PERIOD.

(3) EXCEPT AS PROVIDED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, AN OREC TRANSACTION THAT TAKES PLACE DURING AN ADDITIONAL 5–YEAR TERM IS SUBJECT TO THE PROVISIONS AND REGULATIONS APPLICABLE TO THE ORIGINAL OREC ORDER.

(E) A DEBT, OBLIGATION, OR LIABILITY OF A QUALIFIED OFFSHORE WIND PROJECT, OR AN OWNER OR OPERATOR OF A QUALIFIED OFFSHORE WIND PROJECT, MAY NOT BE CONSIDERED A DEBT, OBLIGATION, OR LIABILITY OF THE STATE.

~~(E)~~ ***(F)*** **ON OR BEFORE JULY 1, 2014, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION AND § 7–704.1 OF THIS SUBTITLE.**

7–705.

(a) Each electricity supplier shall submit a report to the Commission each year in a form and by a date specified by the Commission that:

(1) demonstrates that the electricity supplier has complied with the applicable renewable energy portfolio standard under § 7–703 of this subtitle and includes the submission of the required amount of renewable energy credits; or

(2) demonstrates the amount of electricity sales by which the electricity supplier failed to meet the applicable renewable energy portfolio standard.

(b) **(1) THIS SUBSECTION DOES NOT APPLY TO A SHORTFALL FROM THE REQUIRED TIER 1 RENEWABLE SOURCES THAT IS TO BE DERIVED FROM OFFSHORE WIND ENERGY.**

(2) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article:

[(1)**]** **(I)** except as provided in item **[**(2)**]** **(II)** of this **[**subsection**]** **PARAGRAPH**, a compliance fee of:

[(i)**]** **1.** 4 cents for each kilowatt–hour of shortfall from required Tier 1 renewable sources other than the shortfall from the required Tier 1 renewable sources that is to be derived from solar energy;

[(ii)**]** **2.** the following amounts for each kilowatt–hour of shortfall from required Tier 1 renewable sources that is to be derived from solar energy:

[1.**]** **A.** 45 cents in 2008;

[2.**]** **B.** 40 cents in 2009 through 2014;

[3.**]** **C.** 35 cents in 2015 and 2016;

[4.**]** **D.** 20 cents in 2017 and 2018;

[5.**]** **E.** 15 cents in 2019 and 2020;

[6.**]** **F.** 10 cents in 2021 and 2022; and

[7.**]** **G.** 5 cents in 2023 and later; and

[(iii)**]** **3.** 1.5 cents for each kilowatt–hour of shortfall from required Tier 2 renewable sources; or

[(2)**]** **(II)** for industrial process load:

[(i)**]** **1.** for each kilowatt–hour of shortfall from required Tier 1 renewable sources, a compliance fee of:

[1.**]** **A.** 0.8 cents in 2006, 2007, and 2008;

[2.**]** **B.** 0.5 cents in 2009 and 2010;

[3.**]** **C.** 0.4 cents in 2011 and 2012;

[4.**]** **D.** 0.3 cents in 2013 and 2014;

[5.**]** **E.** 0.25 cents in 2015 and 2016; and

[6.**]** **F.** **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,** 0.2 cents in 2017 and later; and

[(ii)**]** **2.** nothing for any shortfall from required Tier 2 renewable sources.

(3) FOR INDUSTRIAL PROCESS LOAD, THE COMPLIANCE FEE FOR EACH KILOWATT–HOUR OF SHORTFALL FROM REQUIRED TIER 1 RENEWABLE SOURCES IS:

(I) 0.1 CENTS IN ANY YEAR DURING WHICH SUPPLIERS ARE REQUIRED TO PURCHASE ORECS UNDER § 7–704.2 OF THIS SUBTITLE; AND

(II) NOTHING FOR THE YEAR FOLLOWING ANY YEAR DURING WHICH, AFTER FINAL CALCULATIONS, THE NET RATE IMPACT PER MEGAWATT–HOUR FROM QUALIFIED OFFSHORE WIND PROJECTS EXCEEDED $1.65 IN 2012 DOLLARS.

(f) (1) Except as provided in subsection (e) of this section, and notwithstanding the requirements of § 7–703(b) of this subtitle, if the actual or projected dollar–for–dollar cost incurred or to be incurred by an electricity supplier solely for the purchase of Tier 1 renewable energy credits other than solar credits **OR ORECS** in any 1 year is greater than or equal to, or is anticipated to be greater than or equal to, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total annual electricity sales revenues in Maryland, the electricity supplier may request that the Commission:

(i) delay by 1 year each of the scheduled percentages for Tier 1 credits under § 7–703(b) of this subtitle that would apply to the electricity supplier; and

(ii) allow the renewable energy portfolio standard for Tier 1 for that year to continue to apply to the electricity supplier for the following year.

(2) In making its determination under paragraph (1) of this subsection, the Commission shall consider the actual or projected dollar–for–dollar compliance costs of other electricity suppliers.

(3) If an electricity supplier makes a request under paragraph (1) of this subsection based on projected costs, the electricity supplier shall provide verifiable evidence of the projections to the Commission at the time of the request.

(4) If the Commission allows a delay under paragraph (1) of this subsection:

(i) the renewable energy portfolio standard for Tier 1 applicable to the electricity supplier under the delay continues for each subsequent consecutive year that the actual or projected dollar–for–dollar costs incurred, or to be incurred, by

the electricity supplier solely for the purchase of Tier 1 credits other than solar credits **OR ORECS** is greater than or equal to, or is anticipated to be greater than or equal to, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total annual retail electricity sales revenues in Maryland; and

(ii) the renewable energy portfolio standard for Tier 1 applicable to the electricity supplier under the delay is increased to the next scheduled percentage increase under § 7–703(b) of this subtitle for each year in which the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of Tier 1 credits other than solar credits **OR ORECS** is less than, or is anticipated to be less than, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total annual retail electricity sales revenues in Maryland.

Article – Natural Resources

8–1102.

(a) (1) **[**For**] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, FOR** the purposes of maintaining the Atlantic Coast beaches of the State and the Beach Erosion Control District, the integrity and continuity of the dunal system and assuring adequate maintenance of the beaches, Beach Erosion Control District, and dunal system, to provide for shore erosion and sediment control and storm protection, and to minimize structural interference with the littoral drift of sand and any anchoring vegetation, any land clearing, construction activity, or the construction or placement of permanent structures within the Beach Erosion Control District is prohibited.

(2) This prohibition does not apply to any project or activity approved by the Department and the appropriate soil conservation district specifically for storm control; beach erosion and sediment control; maintenance projects designed to benefit the Beach Erosion Control District; the widening of the boardwalk in Ocean City up to an additional 40 feet to the east between South Second Street and the south side of Worcester Street and from the south side of Somerset Street to the southerly terminus of the steel and concrete bulkhead at 4th Street, and an additional 80 feet to the east between the south side of Worcester Street and the south side of Somerset Street to include associated appurtenances and construction of one restroom facility in an easterly direction between South Second Street and the southerly terminus of the steel and concrete bulkhead at 4th Street for the purpose of public health, safety, and welfare; and a planned public utility pipeline carrying treated sewage effluent from a unit not exceeding 14 million gallons per day, if, in addition to the approvals required by all other applicable federal and local laws and regulations, it is approved by the Board of Public Works as essential to the public health, safety, and welfare of the citizens of Worcester County, after having received the permission of the Secretaries of the Environment and Natural Resources, and the Director of Planning, including a guarantee that in any contract under this provision a person will not make any significant permanent environmental disruption to the area, and the construction area

for the purpose of laying a single pipe with a diameter not exceeding 36 inches is limited to a single 100 foot wide area perpendicular eastward from the west crest of the natural dune line on Assateague Island and in Ocean City, and if the Secretaries of the Environment and Natural Resources and the Director of Planning find that there is no economically and environmentally feasible alternative, and that there is insufficient capacity at the existing Ocean City wastewater treatment facility and discharge pipe.

(3) (I) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, THIS PROHIBITION DOES NOT APPLY TO THE CONSTRUCTION AND INSTALLATION OF A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE, AS DEFINED IN § 7–208 OF THE PUBLIC UTILITIES ARTICLE, IF THE PROJECT DOES NOT RESULT IN ANY SIGNIFICANT PERMANENT ENVIRONMENTAL DAMAGE TO THE BEACH EROSION CONTROL DISTRICT, AS DETERMINED BY THE DEPARTMENT.

(II) AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE, AS DEFINED IN § 7–208 OF THE PUBLIC UTILITIES ARTICLE, IS SUBJECT TO REVIEW BY THE DEPARTMENT AND THE DEPARTMENT OF THE ENVIRONMENT, AS PROVIDED IN § 3–306 OF THIS ARTICLE.

(III) THE PUBLIC SERVICE COMMISSION MAY NOT APPROVE AN APPLICATION FOR A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE TO BE CONSTRUCTED OR INSTALLED WITHIN THE ASSATEAGUE NATIONAL SEASHORE PARK OR THE ASSATEAGUE STATE PARK.

(b) The Secretary of the Environment, the Secretary of Natural Resources, and the Director of Planning, with the approval of the Board of Public Works, shall jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article for the purpose of implementing the provisions of this section.

Article – State Government

SUBTITLE 20C. MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.

9–20C–01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ADVISORY COMMITTEE" MEANS THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT ADVISORY COMMITTEE ESTABLISHED UNDER § 9–20C–02 OF THIS SUBTITLE.

(C) "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

(D) "DIRECTOR" MEANS THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION.

(E) "EMERGING BUSINESS" MEANS A BUSINESS THAT IS AT LEAST 51% OWNED AND CONTROLLED BY AN INDIVIDUAL OR INDIVIDUALS WHO ARE CERTIFIED TO HAVE A PERSONAL NET WORTH, AS DEFINED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THAT DOES NOT EXCEED $6,500,000 AS ADJUSTED EACH YEAR FOR INFLATION ACCORDING TO THE CONSUMER PRICE INDEX.

(F) "FUND" MEANS THE MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND ESTABLISHED UNDER § 9–20C–03 OF THIS SUBTITLE.

(G) "MINORITY" MEANS AN INDIVIDUAL WHO IS A MEMBER OF ANY OF THE GROUPS LISTED IN § 14–301(J)(1)(I) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

9–20C–02.

(A) THERE IS A MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT ADVISORY COMMITTEE.

(B) THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS TO THE ADMINISTRATION ON THE MOST EFFECTIVE MANNER TO USE MONEY IN THE FUND CONSISTENT WITH THE PURPOSES OF THE FUND.

(C) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(1) ~~ONE MEMBER~~ TWO MEMBERS OF THE SENATE OF MARYLAND, ONE FROM EACH OF THE PRINCIPAL POLITICAL PARTIES, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ~~ONE MEMBER~~ TWO MEMBERS OF THE HOUSE OF DELEGATES, ONE FROM EACH OF THE PRINCIPAL POLITICAL PARTIES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE;

(4) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(5) THE SPECIAL SECRETARY OF THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, OR THE SPECIAL SECRETARY'S DESIGNEE; AND

(6) THE FOLLOWING ~~11~~ 12 MEMBERS, APPOINTED BY THE GOVERNOR:

(I) 1 REPRESENTATIVE OF A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE;

(II) 1 REPRESENTATIVE OF A HISTORICALLY BLACK OR AFRICAN AMERICAN UNIVERSITY IN THE STATE;

(III) 1 REPRESENTATIVE OF THE STATE'S COMMUNITY COLLEGES;

(IV) 1 REPRESENTATIVE OF THE MARYLAND INDEPENDENT COLLEGES AND UNIVERSITIES ASSOCIATION;

~~(IV)~~ (V) 1 REPRESENTATIVE OF THE MARYLAND SMALL BUSINESS DEVELOPMENT CENTER NETWORK;

~~(V)~~ (VI) 1 REPRESENTATIVE OF THE MARYLAND BUSINESS COALITION FOR OFFSHORE WIND;

~~(VI)~~ (VII) 1 REPRESENTATIVE OF A BUSINESS INCUBATOR IN THE STATE WITH EXPERIENCE IN PROVIDING SERVICES TO MINORITY BUSINESS ENTERPRISES AS DEFINED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, OR TO EMERGING BUSINESSES, INCLUDING EMERGING BUSINESSES OWNED BY MINORITIES;

~~(VII)~~ (VIII) 1 INDIVIDUAL WITH EXPERIENCE IN PROVIDING BUSINESS FINANCING TO MINORITY BUSINESS ENTERPRISES AS DEFINED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, OR TO EMERGING BUSINESSES, INCLUDING EMERGING BUSINESSES OWNED BY MINORITIES;

~~(VIII)~~ (IX) 1 REPRESENTATIVE OF AN OFFSHORE WIND DEVELOPER;

~~(IX)~~ (X) 1 REPRESENTATIVE OF AN ORIGINAL EQUIPMENT MANUFACTURER;

~~(X)~~ (XI) 1 INDIVIDUAL WHO IS A MINORITY BUSINESS ADVOCATE; AND

~~(XI)~~ (XII) 1 INDIVIDUAL WITH EXPERIENCE IN OFFSHORE WIND SUPPLY CHAIN ISSUES.

(D) THE GOVERNOR SHALL APPOINT THE CHAIR OF THE ADVISORY COMMITTEE.

(E) THE ADMINISTRATION SHALL PROVIDE STAFF FOR THE ADVISORY COMMITTEE.

(F) A MEMBER OF THE ADVISORY COMMITTEE:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY COMMITTEE; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) (1) ON OR BEFORE DECEMBER 31, 2013, THE ADVISORY COMMITTEE SHALL PROVIDE WRITTEN RECOMMENDATIONS TO THE ADMINISTRATION REGARDING THE MOST EFFECTIVE USE OF MONEY IN THE FUND IN ORDER TO MAXIMIZE OPPORTUNITIES FOR EMERGING BUSINESSES IN THE STATE, INCLUDING MINORITY–OWNED EMERGING BUSINESSES, TO PARTICIPATE IN THE OFFSHORE WIND INDUSTRY.

(2) IN MAKING A RECOMMENDATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ADVISORY COMMITTEE SHALL CONSIDER OPPORTUNITIES TO MAXIMIZE LEVERAGING OPPORTUNITIES, MENTORING AND PROTEGE MODELS, INNOVATION CLUSTERS, EXISTING INCUBATOR AND BUSINESS DEVELOPMENT PROGRAMS, AND THE APPROPRIATE ROLE OF PARTNERSHIPS WITH THE STATE'S UNIVERSITIES AND COMMUNITY COLLEGES.

(3) ON OR BEFORE DECEMBER 31, 2014, THE ADVISORY COMMITTEE SHALL PROVIDE UPDATED RECOMMENDATIONS TO THE ADMINISTRATION.

(H) ON COMPLETION AND SUBMISSION OF THE WRITTEN RECOMMENDATIONS REQUIRED UNDER SUBSECTION (G) OF THIS SECTION, THE ADVISORY COMMITTEE SHALL TERMINATE ITS OPERATION AND CEASE TO MEET.

9–20C–03.

(A) THERE IS A MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND IN THE ADMINISTRATION.

(B) THE PURPOSES OF THE FUND ARE TO:

(1) PROVIDE FINANCIAL ASSISTANCE, BUSINESS DEVELOPMENT ASSISTANCE, AND EMPLOYEE TRAINING OPPORTUNITIES FOR THE BENEFIT OF EMERGING BUSINESSES IN THE STATE, INCLUDING MINORITY–OWNED EMERGING BUSINESSES, TO PREPARE THOSE BUSINESSES TO PARTICIPATE IN THE EMERGING OFFSHORE WIND INDUSTRY; AND

(2) ENCOURAGE EMERGING BUSINESSES IN THE STATE, INCLUDING MINORITY–OWNED EMERGING BUSINESSES, TO PARTICIPATE IN THE EMERGING OFFSHORE WIND INDUSTRY.

(C) THE ADMINISTRATION MAY USE THE FUND TO:

(1) CARRY OUT THE PURPOSES OF THE FUND; AND

(2) PAY THE COSTS OF IMPLEMENTING THIS SUBTITLE.

(D) THE DIRECTOR SHALL MANAGE AND SUPERVISE THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 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.

(F) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(G) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED BY THE STATE TO THE FUND;

(2) MONEY PAID TO THE FUND BY A QUALIFIED OFFSHORE WIND PROJECT UNDER § 7–704.1(G) OF THE PUBLIC UTILITIES ARTICLE;

(3) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS OR PRIVATE CONTRIBUTIONS;

(4) REPAYMENT OF PRINCIPAL OR PAYMENT OF INTEREST ON A LOAN MADE FROM THE FUND;

(5) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY THE ADMINISTRATION OF COLLATERAL RELATED TO FINANCING THAT THE ADMINISTRATION PROVIDES UNDER THIS SUBTITLE;

(6) INVESTMENT EARNINGS OF THE FUND; AND

(7) ANY OTHER MONEY MADE AVAILABLE TO THE ADMINISTRATION FOR THE FUND.

(H) (1) IN FISCAL YEARS 2014 AND 2015, $1,500,000 SHALL BE TRANSFERRED FROM THE STRATEGIC ENERGY INVESTMENT FUND TO THE FUND.

(2) IN FISCAL YEAR 2016, $1,000,000 SHALL BE TRANSFERRED FROM THE STRATEGIC ENERGY INVESTMENT FUND TO THE FUND.

9–20C–04.

(A) WHEN DETERMINING HOW MOST EFFECTIVELY TO USE THE MONEY IN THE FUND, THE ADMINISTRATION SHALL CONSIDER THE ~~RECOMMENDATION~~ *RECOMMENDATIONS* OF THE ADVISORY COMMITTEE.

(B) IN CARRYING OUT THIS SUBTITLE, AND CONSISTENT WITH THE PURPOSES OF THE FUND, THE ADMINISTRATION MAY CONTRACT WITH:

(1) EXPERTS IN THE AREA OF OFFSHORE WIND ENERGY; ~~AND~~

(2) THE SMALL BUSINESS DEVELOPMENT CENTER NETWORK IN THE UNIVERSITY OF MARYLAND; AND

~~(2)~~ *(3)* ENTITIES EXPERIENCED IN ASSISTING EMERGING BUSINESSES, INCLUDING MINORITY–OWNED EMERGING BUSINESSES, IN ACCESSING MARKET OPPORTUNITIES.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DIVISION II OF THE STATE FINANCE AND PROCUREMENT

ARTICLE DOES NOT APPLY TO A SERVICE THAT THE ADMINISTRATION OBTAINS UNDER THIS SECTION.

(2) THE ADMINISTRATION IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES UNDER THIS SECTION.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

69. the Maryland Legal Services Corporation Fund; **[**and**]**

70. Mortgage Loan Servicing Practices Settlement Fund**; AND**

71. MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utilities

7–208.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "QUALIFIED OFFSHORE WIND PROJECT" HAS THE MEANING STATED IN § 7–701 OF THIS TITLE.

(3) "QUALIFIED SUBMERGED RENEWABLE ENERGY LINE" MEANS:

(I) A LINE CARRYING ELECTRICITY SUPPLY AND CONNECTING A QUALIFIED OFFSHORE WIND PROJECT TO THE TRANSMISSION SYSTEM; AND

(II) A LINE IN WHICH THE PORTIONS OF THE LINE CROSSING ANY SUBMERGED LANDS OR ANY PART OF A BEACH EROSION CONTROL DISTRICT ARE BURIED OR SUBMERGED.

[(a)**] (B)** This section applies to any person:

(1) constructing a generating station and its associated overhead transmission lines designed to carry a voltage in excess of 69,000 volts; **[**or**]**

(2) exercising the right of condemnation in connection with the construction**; OR**

(3) CONSTRUCTING A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE.

[(b)**] (C)** (1) To obtain the certificate of public convenience and necessity required under § 7–207 of this subtitle for construction under this section, a person shall file an application with the Commission at least 2 years before construction of the facility will commence.

(2) The Commission may waive the 2–year requirement on a showing of good cause.

[(c)**] (D)** The applicant shall:

(1) include in an application under this section the information that the Commission requests initially; and

(2) furnish any additional information that the Commission requests subsequently.

[(d)**] (E)** (1) On the receipt of an application under this section, together with any additional information requested under subsection **[**(c)(2)**] (D)(2)** of this section, the Commission shall provide notice to:

(i) all interested persons;

(ii) the Department of Agriculture;

(iii) the Department of Business and Economic Development;

(iv) the Department of the Environment;

(v) the Department of Natural Resources;

(vi) the Department of Transportation; **[**and**]**

(vii) the Department of Planning**; AND**

(VIII) THE MARYLAND ENERGY ADMINISTRATION.

(2) The Commission shall hold a public hearing on the application as required by § 7–207 of this subtitle**[**,**]** after:

(i) the receipt of any additional information requested under subsection **[**(c)(2)**] (D)(2)** of this section that the Commission considers necessary; and

(ii) any publication of notice the Commission considers to be proper.

(3) (i) At the public hearing, the Commission shall ensure presentation of the information and recommendations of the State units specified in paragraph (1) of this subsection and shall allow the official representative of each unit to sit during hearing of all parties.

(ii) Based on the evidence relating to the unit's areas of concern, the Commission shall allow each unit 15 days after the conclusion of the hearing to modify or affirm the unit's initial recommendations.

[(e)**] (F)** Within 90 days after the conclusion of the hearing on an application under this section, the Commission shall:

(1) (i) grant a certificate of public convenience and necessity unconditionally;

(ii) grant the certificate, subject to conditions the Commission determines to be appropriate; or

(iii) deny the certificate; and

(2) notify all interested parties of its decision.

[(f)**] (G)** (1) The Commission shall include in each certificate it issues under subsection **[**(e)**] (F)** of this section:

(i) the requirements of the federal and State environmental laws and standards that are identified by the Department of the Environment; and

(ii) the methods and conditions that the Commission determines are appropriate to comply with those environmental laws and standards.

(2) The Commission may not adopt any method or condition under paragraph (1)(ii) of this subsection that the Department of the Environment determines is inconsistent with federal and State environmental laws and standards.

[(g)**] (H)** (1) A decision of the Commission regarding the issuance of a certificate requires the vote of a majority of the members of the Commission.

(2) If a majority of the members of the Commission fails to reach agreement on the conditions to be attached to a conditional certificate, the certificate shall be denied.

[(h)**] (I)** The grant of a certificate by the Commission to any person under subsection **[**(e)**] (F)** of this section constitutes:

(1) authority for the person to dredge and construct bulkheads in the waters or private wetlands of the State and to appropriate or use the waters; and

(2) registration and a permit to construct, as required under Title 2, Subtitle 4 of the Environment Article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utilities

7–704.1.

(e) (1) The Commission may not approve an applicant's proposed offshore wind project unless:

(i) the proposed offshore wind project demonstrates positive net economic, environmental, and health benefits to the State, based on the criteria specified in subsection (c)(3) of this section;

(ii) the projected net rate impact for an average residential customer, based on annual consumption of 12,000 kilowatt–hours, combined with the projected net rate impact of other qualified offshore wind projects, does not exceed $1.50 per month in 2012 dollars, over the duration of the proposed OREC pricing schedule;

(iii) the projected net rate impact for all nonresidential customers considered as a blended average, combined with the projected net rate impact of other qualified offshore wind projects, does not exceed 1.5% of nonresidential

customers' total annual electric bills, over the duration of the proposed OREC pricing schedule; and

(iv) the price set in the proposed OREC price schedule does not exceed $190 per megawatt–hour in 2012 dollars.

(2) (i) When calculating the net benefits to the State under paragraph (1)(i) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(ii) When calculating the projected net average rate impacts under paragraph (1)(ii) and (iii) of this subsection, the Commission shall apply the same net OREC cost per megawatt–hour to residential and nonresidential customers.

(3) (I) THE FINDINGS AND EVIDENCE RELIED ON BY THE GENERAL ASSEMBLY FOR THE CONTINUATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AS ENACTED BY CHAPTER 253 OF THE ACTS OF 2011 AND CHAPTER 154 OF THE ACTS OF 2012, ARE INCORPORATED IN THIS PARAGRAPH.

(II) TO THE EXTENT PRACTICABLE AND PERMITTED BY THE UNITED STATES CONSTITUTION, APPROVED APPLICANTS FOR A PROPOSED OFFSHORE WIND PROJECT SHALL COMPLY WITH THE STATE'S MINORITY BUSINESS ENTERPRISE PROGRAM.

(III) 1. THE COMMISSION MAY NOT APPROVE AN APPLICATION UNTIL THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL, AND THE APPLICANT HAVE ESTABLISHED A CLEAR PLAN FOR SETTING REASONABLE AND APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS AND PROCEDURES FOR EACH PHASE OF THE QUALIFIED OFFSHORE WIND PROJECT.

2. TO THE EXTENT PRACTICABLE, THE GOALS AND PROCEDURES SPECIFIED IN SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE BASED ON THE REQUIREMENTS OF TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND THE REGULATIONS IMPLEMENTING THAT SUBTITLE.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) (1) Notwithstanding any other law, the following amounts shall be transferred from money derived from the Exelon–Constellation merger approved by the Public Service Commission in Case No. 9271, Order 84698 on February 17, 2012, and deposited into the Maryland Strategic Energy Investment Fund established under

§ 9–20B–05 of the State Government Article to the Public Service Commission in order to contract the services of independent consultants and experts as necessary to carry out this Act:

(i) for fiscal year 2014, $1,000,000; and

(ii) for fiscal year 2015, $2,000,000.

(2) The sum transferred under paragraph (1) of this subsection is in addition to any amounts transferred to the Maryland Offshore Wind Business Development Fund under § 9–20C–03(h) of the State Government Article, as enacted by this Act, from money derived from the Exelon–Constellation merger approved by the Public Service Commission in Case No. 9271, Order 84698 on February 17, 2012.

(3) Subject to paragraph (4) of this subsection, any funds received by the Public Service Commission under paragraph (1) of this subsection and not encumbered at the end of the fiscal year shall be carried forward to the next fiscal year.

(4) Any funds received by the Public Service Commission under paragraph (1) of this subsection and not encumbered by June 30, 2019, shall be transferred to the Maryland Strategic Energy Investment Fund.

~~(b) (1) Subject to subsection (a) of this section, and, notwithstanding any other law, the Public Service Commission may implement a special assessment using the assessment process authorized under § 2–110 of the Public Utilities Article in order to contract for the services of independent consultants and experts as necessary to carry out this Act.~~

~~(2) The cumulative special assessment under this subsection may not exceed $3,000,000 less the net amount transferred to the Commission under subsection (a) of this section.~~

~~(3) The assessment shall be imposed only on those electric companies and electricity suppliers otherwise subject to the assessment under § 2–110 of the Public Utilities Article.~~

~~(4) The limit imposed under § 2–110(c)(12) of the Public Utilities Article does not apply to any assessment made under this section.~~

(b) (1) Subject to paragraph (2) of this subsection, beginning in fiscal year 2020, in any fiscal year in which the Public Service Commission requires funding to contract the services of independent consultants and experts to carry out this Act, money shall be transferred from the Maryland Strategic Energy Investment Fund to the Public Service Commission to contract the services of independent consultants and experts.

(2) The cumulative amount transferred to the Public Service Commission under this subsection may not exceed $3,000,000 less the net amount transferred to the Public Service Commission under subsection (a) of this section.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) Notwithstanding any other law, for any fiscal year during which an OREC obligation exists to meet a renewable portfolio standard derived from offshore wind energy set by the Public Service Commission under § 7–703(b)(12) through (17) of the Public Utilities Article, as enacted by Section 1 of this Act, the Commission may implement a special assessment using the assessment process authorized under § 2–110 of the Public Utilities Article in order to employ staff and recover administrative costs necessary to carry out this Act.

(b) (1) The cumulative special assessment under this section shall be imposed only on those electric companies and electricity suppliers otherwise subject to the assessment under § 2–110 of the Public Utilities Article.

(2) The limit imposed under § 2–110(c)(12) of the Public Utilities Article does not apply to any assessment made under this section.

SECTION 6. AND BE IT FURTHER ENACTED, That on receipt of all applications submitted under § 7–704.1 of the Public Utilities Article, as enacted by Section 1 of this Act, the Commission shall promptly open an evidentiary proceeding to allow open and transparent evaluation of applications to the maximum extent possible consistent with applicable confidentiality laws.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) There is a Clean Energy Program Task Force.

(b) The Task Force consists of the following 11 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) the President of Bowie State University, or the President's designee;

(4) the President of Coppin State University, or the President's designee;

(5) the President of Morgan State University, or the President's designee;

(6) the President of the University of Maryland Eastern Shore, or the President's designee;

(7) the Secretary of Higher Education, or the Secretary's designee;

(8) the Director of the Maryland Energy Administration, or the Director's designee; and

(9) the following three members, appointed by the Governor:

(i) one representative of the American Association of Blacks in Energy; and

(ii) two representatives of the clean energy industry.

(c) The Governor shall designate the chair of the Task Force.

(d) The Maryland Higher Education Commission *and the Maryland Energy Administration* 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:

(1) study the feasibility of establishing a terminal degree or certificate program in clean energy at one or more of the following colleges and universities:

(i) Bowie State University;

(ii) Coppin State University;

(iii) Morgan State University; and

(iv) the University of Maryland Eastern Shore; and

(2) make recommendations regarding the feasibility of establishing a terminal degree or certificate program in clean energy at one or more of the colleges and universities listed in paragraph (1) of this subsection.

(g) On or before July 31, 2014, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) There is a Clean Energy Technical Education Task Force.

(b) The Task Force consists of the following eight 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) the Director of the Maryland Energy Administration, or the Director's designee;

(4) the Secretary of the Department of Labor, Licensing, and Regulation, or the Secretary's designee; and

(5) the following four members appointed by the Governor:

(i) two representatives of community colleges in the State; and

(ii) two representatives of the clean energy industry.

(c) The Governor shall designate the chair of the Task Force.

(d) The Maryland Higher Education Commission, the Maryland Energy Administration, and the Maryland Association of Community Colleges jointly 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 the programs and course offerings currently being offered in the area of clean energy, with a particular emphasis on wind energy, and identify areas in which additional programs and course offerings should be offered at one or more of the following community colleges:

(1) Allegany College of Maryland;

(2) Anne Arundel Community College;

(3) Baltimore City Community College;

(4) Community College of Baltimore County;

(5) Carroll Community College;

(6) Cecil College;

(7) Chesapeake College;

(8) College of Southern Maryland;

(9) Frederick Community College;

(10) Garrett College;

(11) Hagerstown Community College;

(12) Harford Community College;

(13) Howard Community College;

(14) Montgomery College;

(15) Prince George's Community College; and

(16) Wor–Wic Community College.

(g) On or before July 31, 2014, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION ~~7.~~ ~~8.~~ *9.* AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~8.~~ ~~9.~~ *10.* AND BE IT FURTHER ENACTED, That § 7–705(f) of the Public Utilities Article, as enacted by Section 1 of this Act, shall remain effective until the taking effect of the termination provision specified in Section 4 of Chapters 125 and 126 of the Acts of the General Assembly of 2008. If that termination provision takes effect, § 7–705(f) of the Public Utilities Article, as enacted by Section 1 of this

Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION ~~9.~~ ~~10.~~ *11.* AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect June 1, 2013. It shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2016, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no force and effect.

SECTION ~~10.~~ ~~11.~~ *12.* AND BE IT FURTHER ENACTED, That ~~Section 7~~ *Sections 7 and 8* of this Act shall take effect June 1, 2013. ~~It~~ *They* shall remain effective for a period of 1 year and 2 months and, at the end of July 31, 2014, with no further action required by the General Assembly, ~~Section 7~~ *Sections 7 and 8* of this Act shall be abrogated and of no further force and effect.

SECTION ~~12.~~ *13.* AND BE IT FURTHER ENACTED, That ~~except as provided in Section 9 of this Act,~~ this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 4

(House Bill 229)

AN ACT concerning

State Aid for Public Education – Certification of Net Taxable Income

FOR the purpose of altering the definition of "net taxable income" for purposes of calculating certain State aid formulas for education; requiring the Comptroller to certify annually the amount of net taxable income in a certain manner; requiring certain State aid to be calculated in a certain manner; requiring certain State aid to be paid in a certain manner under certain circumstances; providing for the application of this Act; and generally relating to the certification of net taxable income for the purposes of certain State aid for education funding.

BY repealing and reenacting, without amendments,
Article – Education
Section 5–202(a)(1) and (14)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 5–202(a)(9)

Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 5–202(k)
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

5–202.

(a) (1) In this section the following words have the meanings indicated.

(9) "Net taxable income" means the amount certified by the State Comptroller for the second completed calendar year before the school year for which the calculation of State aid under this section is made, based on tax returns filed on or before**:**

(I) September 1 after **[**this**]** **THE CURRENT** calendar year**; AND**

(II) NOVEMBER 1 AFTER THE CURRENT CALENDAR YEAR.

(14) "Wealth" means the sum of:

(i) Net taxable income;

(ii) 100 percent of the assessed value of the operating real property of public utilities;

(iii) 40 percent of the assessed valuation of all other real property; and

(iv) 50 percent of assessed value of personal property.

(K) (1) THIS SUBSECTION APPLIES TO EDUCATION PROGRAMS THAT USE WEALTH TO CALCULATE STATE AID FORMULAS UNDER THIS SUBTITLE.

(2) THE COMPTROLLER SHALL CERTIFY ANNUALLY THE AMOUNT OF NET TAXABLE INCOME BASED ON BOTH:

(I) TAX RETURNS FILED ON OR BEFORE SEPTEMBER 1; AND

(II) TAX RETURNS FILED ON OR BEFORE NOVEMBER 1.

(3) FOR EACH FISCAL YEAR, STATE AID SHALL BE CALCULATED AS FOLLOWS:

(I) ONCE USING THE AMOUNT CERTIFIED FOR NET TAXABLE INCOME UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION FOR TAX RETURNS FILED ON OR BEFORE SEPTEMBER 1; AND

(II) AGAIN USING THE AMOUNT CERTIFIED FOR NET TAXABLE INCOME UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION FOR TAX RETURNS FILED ON OR BEFORE NOVEMBER 1.

(4) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, THE AMOUNT OF STATE AID FOR A COUNTY SHALL BE THE GREATER OF THE TWO CALCULATIONS REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION.

(5) IF THE AMOUNT OF STATE AID FOR A COUNTY, USING THE CALCULATION OF STATE AID UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION, IS THE GREATER OF THE TWO CALCULATIONS UNDER PARAGRAPH (3) OF THIS SUBSECTION, PAYMENT OF ANY INCREASE IN STATE AID RESULTING FROM THE DIFFERENCE BETWEEN THE TWO CALCULATIONS SHALL BE PHASED IN AS FOLLOWS:

(I) FOR FISCAL YEAR 2014, 20 PERCENT OF THE DIFFERENCE BETWEEN THE TWO CALCULATIONS;

(II) FOR FISCAL YEAR 2015, 40 PERCENT OF THE DIFFERENCE BETWEEN THE TWO CALCULATIONS;

(III) FOR FISCAL YEAR 2016, 60 PERCENT OF THE DIFFERENCE BETWEEN THE TWO CALCULATIONS;

(IV) FOR FISCAL YEAR 2017, 80 PERCENT OF THE DIFFERENCE BETWEEN THE TWO CALCULATIONS; AND

(V) FOR FISCAL YEAR 2018, AND EACH FISCAL YEAR THEREAFTER, THE FULL AMOUNT OF THE CALCULATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to the calculation of payments of State aid for education for fiscal years beginning after June 30, 2013.

Approved by the Governor, April 9, 2013.

Chapter 5

(House Bill 560)

AN ACT concerning

Public–Private Partnerships

FOR the purpose of establishing the policy of the State on public–private partnerships; altering provisions of law relating to public–private partnerships; authorizing a certain agency to establish a public–private partnership and execute a partnership agreement in connection with certain functions, services, or assets; requiring a certain agency to adopt certain regulations and establish certain processes for the development, solicitation, evaluation, award, and delivery of public–private partnerships; requiring certain legislative committees to review and comment on certain processes and regulations; requiring certain agencies to submit, on or before a certain date each year, certain reports to certain legislative committees; establishing certain requirements for certain reports; *requiring certain public–private partnerships to be listed in the annual capital budget or the Consolidated Transportation Program;* establishing deadlines for the review of certain presolicitation reports; *authorizing, under certain circumstances, certain legislative committees to request additional time to review the presolicitation report;* requiring certain projects to comply with certain provisions of law; requiring that State employees retain certain protections under certain circumstances; *prohibiting the Board of Public Works from approving a public–private partnership that results in the State exceeding certain debt affordability guidelines;* requiring a reporting agency to issue a public notice of solicitation for a public–private partnership under certain circumstances; requiring certain agencies to comply with certain requirements before issuing a solicitation for a public–private partnership; providing that a certain entity may be qualified as a bidder through certain processes; authorizing a reporting agency to engage in discussions with qualified bidders at certain times and under certain circumstances; requiring a certain agency to make a certain responsibility determination concerning certain entities; authorizing a reporting agency to reimburse a private entity for certain costs and pay a certain entity for the right to use a certain work product; requiring a reporting agency to adopt certain regulations that establish the process for the reimbursement of a private entity; prohibiting a reporting agency from reimbursing a private entity under certain circumstances; ~~requiring a certain agency to submit certain reports to certain officials and committees;~~ prohibiting the Board of Public Works from approving a public–private partnership agreement until the completion of a certain review by certain officials and committees; establishing deadlines for the review of public–private partnership

agreements; requiring a certain agency to post a certain agreement on a certain Web site; requiring certain entities to provide performance bonds; prohibiting a public–private partnership agreement from exceeding a certain number of years, with certain exceptions; prohibiting noncompete agreements for certain assets; authorizing the award of certain compensation under certain circumstances; establishing certain requirements for a final public–private partnership agreement; requiring certain proceeds to accrue to certain funds; requiring a certain agency to post on the Internet a certain final agreement; requiring certain information to be withheld from the posted version of the agreement; authorizing a certain agency to establish by regulation certain application fees for certain unsolicited proposals; establishing certain requirements for certain unsolicited proposals; authorizing an individual or firm that submits an unsolicited proposal to participate in a certain subsequent process; providing that certain provisions of the State ethics law do not preclude a certain individual or firm from entering into a certain agreement; providing, under certain circumstances, that the provisions of the Minority Business Enterprise Program apply to public–private partnerships; prohibiting the Board of Public Works from approving a public–private partnership agreement until the reporting agency, in consultation with certain entities, establishes certain minority business enterprise goals and procedures; requiring that certain goals and procedures be based on the requirements of certain provisions of law; exempting public–private partnerships from certain requirements of the State procurement law; repealing certain obsolete provisions; defining a certain term; altering certain definitions; providing for the application of this Act; providing for the termination of certain provisions of this Act; and generally relating to public–private partnerships.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 10A–101
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing
Article – State Finance and Procurement
Section 10A–102
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to
Article – State Finance and Procurement
Section 10A–102 through 10A–105 to be under the new subtitle "Subtitle 1. Definitions; General Provisions"; 10A–201 through 10A–204 to be under the new subtitle "Subtitle 2. Solicited Proposals"; 10A–301 to be under the new subtitle "Subtitle 3. Unsolicited Proposals"; 10A–401 through 10A–403 to be under the new subtitle "Subtitle 4. Public–Private Partnership Agreements"; and 11–203(h)

Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing
Article – Transportation
Section 4–406
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, Traditional methods for infrastructure finance, development, construction, operation, and maintenance are not sufficient to meet the current and future infrastructure needs of the State, and it is therefore necessary to promote innovative measures and nontraditional vehicles of infrastructure delivery; and

WHEREAS, The establishment of public–private partnerships by and between the State and the private sector is one mechanism to deliver infrastructure projects, increase private investment in public infrastructure, and create jobs in Maryland; and

WHEREAS, The Governor of Maryland intends to establish by executive order a process to improve the management and coordination of future public–private partnership projects to include all of the responsibilities laid out in the final report of the Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

10A–101.

(a) **[**(1)**]** In this title the following words have the meanings indicated.

[(2)**] (B)** "Budget committees" means the Senate Budget and Taxation Committee, the House Committee on Ways and Means, and the House Appropriations Committee.

[(3)**] (C)** "Private entity" means an individual, a corporation, a general or limited partnership, a limited liability company, a joint venture, a statutory trust, a public benefit corporation, a nonprofit entity, or another business entity.

(D) "PUBLIC INFRASTRUCTURE ASSET" MEANS A CAPITAL FACILITY OR STRUCTURE, INCLUDING SYSTEMS AND EQUIPMENT RELATED TO THE FACILITY OR STRUCTURE INTENDED FOR PUBLIC USE.

[(4)**] (E)** "Public notice of solicitation" includes **A REQUEST FOR QUALIFICATIONS,** a request for expressions of interest, a request for proposals, **[**a memorandum of understanding, an interim development agreement, a letter of intent, or a preliminary development plan**] OR ANY COMBINATION THEREOF**.

[(5) (i)**] (F) (1)** "Public–private partnership" means **[**a sale or lease agreement between a unit of State government and a private entity under which:

1. the private entity assumes control of the operation and maintenance of an existing State facility; or

2. the private entity constructs, reconstructs, finances, or operates a State facility or a facility for State use and will collect fees, charges, rents, or tolls for the use of the facility**] A METHOD FOR DELIVERING PUBLIC INFRASTRUCTURE ASSETS USING A LONG–TERM, PERFORMANCE–BASED AGREEMENT BETWEEN A REPORTING AGENCY AND A PRIVATE ENTITY WHERE APPROPRIATE RISKS AND BENEFITS CAN BE ALLOCATED IN A COST–EFFECTIVE MANNER BETWEEN THE CONTRACTUAL PARTNERS IN WHICH:**

~~(II)~~ (I) A PRIVATE ENTITY PERFORMS FUNCTIONS NORMALLY UNDERTAKEN BY THE GOVERNMENT, BUT THE REPORTING AGENCY REMAINS ULTIMATELY ACCOUNTABLE FOR THE PUBLIC INFRASTRUCTURE ASSET AND ITS PUBLIC FUNCTION; AND

~~(III)~~ (II) THE STATE MAY RETAIN OWNERSHIP IN THE PUBLIC INFRASTRUCTURE ASSET AND THE PRIVATE ENTITY MAY BE GIVEN ADDITIONAL DECISION–MAKING RIGHTS IN DETERMINING HOW THE ASSET IS FINANCED, DEVELOPED, CONSTRUCTED, OPERATED, AND MAINTAINED OVER ITS LIFE CYCLE.

[(ii)**] (2)** "Public–private partnership" does not include:

[1.**] (I)** a short–term operating space lease entered into in the ordinary course of business by a unit of State government and a private entity and approved under § 4–321 **OR § 12–204** of this article;

[2.**] (II)** a procurement governed by Division II of this article; **[**or**]**

[3.**] (III)** public–private partnership agreements entered into by the University System of Maryland, **ST. MARY'S COLLEGE OF MARYLAND,**

MORGAN STATE UNIVERSITY, OR BALTIMORE CITY COMMUNITY COLLEGE, where no State funds are used to fund or finance any portion of a capital project**; OR**

(IV) ~~A~~ REVENUE–PRODUCING TRANSPORTATION FACILITIES ~~PROJECT EXEMPTED FROM PROCUREMENT UNDER 21.01.03.03(D)~~ *UNDER 21.01.03.03(B)(1)(D)* OF ~~COMAR~~ THE CODE OF MARYLAND REGULATIONS *THAT IS NOT A PUBLIC–PRIVATE PARTNERSHIP AS DEFINED UNDER PARAGRAPH (1) OF THIS SUBSECTION*.

[(6)**] (G)** "Reporting agency" means:

[(i)**] (1)** the Department of General Services;

[(ii)**] (2)** the Maryland Department of Transportation**, FOR PUBLIC INFRASTRUCTURE ASSETS OF ANY OF ITS MODAL ADMINISTRATIONS**;

(3) THE MARYLAND TRANSPORTATION AUTHORITY;

[(iii)**] (4)** the University System of Maryland;

[(iv)**] (5)** Morgan State University;

[(v)**] (6)** St. Mary's College of Maryland; and

[(vi)**] (7)** the Baltimore City Community College.

[(b) The requirements of this title do not apply to the Maryland Transportation Authority or to a public–private partnership proposed or entered into by the Maryland Transportation Authority.

(c) (1) The reports provided by the Department of General Services under this section shall include information concerning all public–private partnerships involving units within the Executive Branch of State government, except for those units that are also reporting agencies.

(2) Following the submission of each of the reports required under this section, the budget committees shall have 45 days to review and comment on the reports.

(d) (1) Not less than 45 days before issuing a public notice of solicitation for a public–private partnership, a reporting agency shall submit to the State Treasurer and the budget committees, in accordance with § 2–1246 of the State Government Article, a report concerning the proposed public–private partnership.

(2) By January 1 of each year, each reporting agency shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, a report concerning each public–private partnership under consideration at that time by the reporting agency that has not been reviewed or approved previously by the General Assembly.

(3) By January 1 of each year, each reporting agency shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, a status report concerning each existing public–private partnership in which the reporting agency is involved.

(e) By January 1 of each year, a unit of State government that provides conduit financing for a public–private partnership shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, a report concerning each public–private partnership for which the unit is providing conduit financing.**]**

(H) "RESPONSIBILITY DETERMINATION" MEANS THE DETERMINATION BY A REPORTING AGENCY THAT A PRIVATE ENTITY THAT RESPONDS TO A SOLICITATION FOR A PUBLIC–PRIVATE PARTNERSHIP:

(1) HAS THE CAPACITY IN ALL RESPECTS TO PERFORM FULLY THE REQUIREMENTS OF A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT; AND

(2) POSSESSES THE INTEGRITY AND RELIABILITY THAT WILL ENSURE GOOD FAITH PERFORMANCE.

[10A–102.

(a) The State Treasurer shall analyze the impact of each public–private partnership agreement proposed by a unit of State government on the State's capital debt affordability limits.

(b) The State Treasurer shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, each analysis required under subsection (a) of this section within 30 days after the State Treasurer receives a proposed public–private partnership agreement from a unit of State government.

(c) The Board of Public Works may not approve a public–private partnership agreement under § 10–305 or § 12–204 of this article until the budget committees have had 30 days to review and comment on the State Treasurer's analysis of the agreement required under subsection (a) of this section.

(d) The annual report of the Capital Debt Affordability Committee required under § 8–112 of this article shall include an analysis of the aggregate impact of

public–private partnership agreements on the total amount of new State debt that prudently may be authorized for the next fiscal year.**]**

10A–102.

(A) IT IS THE PUBLIC POLICY OF THE STATE TO UTILIZE PUBLIC–PRIVATE PARTNERSHIPS, IF APPROPRIATE, TO:

(1) DEVELOP AND STRENGTHEN THE STATE'S PUBLIC INFRASTRUCTURE ASSETS;

(2) APPORTION BETWEEN THE PUBLIC AND PRIVATE SECTORS THE RISKS INVOLVED WITH DEVELOPING AND STRENGTHENING PUBLIC INFRASTRUCTURE ASSETS;

(3) FOSTER THE CREATION OF NEW JOBS; AND

(4) PROMOTE THE SOCIOECONOMIC DEVELOPMENT AND COMPETIVENESS OF MARYLAND.

(B) IT IS THE PUBLIC POLICY OF THE STATE THAT A PRIVATE ENTITY THAT ENTERS INTO A PUBLIC–PRIVATE PARTNERSHIP WITH A REPORTING AGENCY COMPLY WITH THE LABOR AND EMPLOYMENT ARTICLE AND THE FEDERAL FAIR LABOR STANDARDS ACT.

10A–103.

(A) (1) A REPORTING AGENCY MAY ESTABLISH A PUBLIC–PRIVATE PARTNERSHIP AND EXECUTE AN AGREEMENT IN CONNECTION WITH ANY PUBLIC INFRASTRUCTURE ASSET FOR WHICH THE REPORTING AGENCY IS RESPONSIBLE IN ACCORDANCE WITH THE PROVISIONS OF THE ANNOTATED CODE.

(2) A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT EXECUTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE PROVISIONS THAT ARE NECESSARY TO DEVELOP AND STRENGTHEN A PUBLIC INFRASTRUCTURE ASSET IN CONJUNCTION WITH A PUBLIC–PRIVATE PARTNERSHIP.

(B) (1) A REPORTING AGENCY SHALL ADOPT REGULATIONS AND ESTABLISH PROCESSES FOR THE DEVELOPMENT, SOLICITATION, EVALUATION, AWARD, AND DELIVERY OF PUBLIC–PRIVATE PARTNERSHIPS.

(2) A REPORTING AGENCY MAY NOT ADOPT REGULATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION UNTIL:

(I) THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW REVIEWS THE REGULATIONS IN ACCORDANCE WITH § 10–110 OF THE STATE GOVERNMENT ARTICLE;

(II) THE BUDGET COMMITTEES REVIEW AND COMMENT ON THE REGULATIONS; AND

(III) AT LEAST 45 DAYS AFTER THE FIRST PUBLICATION OF THE REGULATIONS IN THE MARYLAND REGISTER.

(C) A REPORTING AGENCY MAY CREATE A SPECIFIC FUNCTION DEDICATED TO PUBLIC–PRIVATE PARTNERSHIP PROCESSES WITHIN THE EXISTING REPORTING AGENCY.

(D) ANY COMBINATION OF FEDERAL, STATE, OR LOCAL FUNDS, GRANTS, LOANS, DEBT, OR OTHER PUBLIC SOURCES OF FUNDING OR FINANCING MAY BE USED AND COMBINED WITH ANY PRIVATE SOURCES OF FUNDING OR FINANCING FOR A PUBLIC–PRIVATE PARTNERSHIP PROJECT.

(E) ANY PROCEEDS OR REVENUES RECEIVED BY A REPORTING AGENCY FROM A PUBLIC–PRIVATE PARTNERSHIP THAT ARE NOT OTHERWISE PAID OR ALLOCATED TO THE PRIVATE SECTOR SHALL ACCRUE TO THE FUND THAT WOULD HAVE NORMALLY RECEIVED THOSE FUNDS.

10A–104.

(A) (1) BY JANUARY 1 OF EACH YEAR, EACH REPORTING AGENCY SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE:

(I) A REPORT CONCERNING EACH PUBLIC–PRIVATE PARTNERSHIP UNDER CONSIDERATION THAT HAS NOT BEEN REVIEWED OR APPROVED PREVIOUSLY BY THE GENERAL ASSEMBLY; AND

(II) A STATUS REPORT CONCERNING EACH EXISTING PUBLIC–PRIVATE PARTNERSHIP IN WHICH THE REPORTING AGENCY IS INVOLVED.

(2) THE REPORTS SUBMITTED BY THE DEPARTMENT OF GENERAL SERVICES UNDER THIS SUBSECTION SHALL INCLUDE INFORMATION CONCERNING ALL PUBLIC–PRIVATE PARTNERSHIPS INVOLVING UNITS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, EXCEPT FOR THOSE UNITS THAT ARE ALSO REPORTING AGENCIES.

(B) BY JANUARY 1 OF EACH YEAR, A UNIT OF STATE GOVERNMENT THAT PROVIDES CONDUIT FINANCING FOR A PUBLIC–PRIVATE PARTNERSHIP SHALL SUBMIT TO THE BUDGET COMMITTEES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, A LIST THAT INCLUDES EACH PUBLIC–PRIVATE PARTNERSHIP FOR WHICH THE UNIT IS PROVIDING CONDUIT FINANCING.

(C) THE ANNUAL REPORT OF THE CAPITAL DEBT AFFORDABILITY COMMITTEE REQUIRED UNDER § 8–112 OF THIS ARTICLE SHALL INCLUDE AN ANALYSIS OF THE AGGREGATE IMPACT OF PUBLIC–PRIVATE PARTNERSHIP AGREEMENTS ON THE TOTAL AMOUNT OF NEW STATE DEBT THAT PRUDENTLY MAY BE AUTHORIZED FOR THE NEXT FISCAL YEAR.

(D) ALL EXISTING PUBLIC–PRIVATE PARTNERSHIPS AND ANY PUBLIC–PRIVATE PARTNERSHIP THAT IS EXPECTED TO BE SOLICITED SHALL BE LISTED ANNUALLY AS APPROPRIATE IN THE ANNUAL CAPITAL BUDGET OR THE CONSOLIDATED TRANSPORTATION PROGRAM.

10A–105.

(A) A PROJECT UNDERTAKEN BY A REPORTING AGENCY THROUGH A PUBLIC–PRIVATE PARTNERSHIP SHALL COMPLY WITH THE FOLLOWING PROVISIONS, TO THE EXTENT THAT THE PROVISIONS ARE APPLICABLE TO THE PROJECT:

(1) § 3–602.1 OF THIS ARTICLE; AND

(2) THE ENVIRONMENT ARTICLE.

(B) THE PRIVATE ENTITY AND ANY CONTRACTORS OR SUBCONTRACTORS CONSTRUCTING A PUBLIC INFRASTRUCTURE ASSET SHALL BE SUBJECT TO TITLE 17, ~~SUBTITLE~~ SUBTITLES 1 AND 2 OF THIS ARTICLE REGARDLESS OF WHETHER THE CONTRACT QUALIFIES AS A PUBLIC WORKS CONTRACT.

(C) STATE EMPLOYEES SHALL RETAIN ALL OF THE PROTECTIONS IN STATE LAW, REGULATIONS, AND POLICIES THAT ARE IN EFFECT AT THE TIME THE PUBLIC–PRIVATE PARTNERSHIP AGREEMENT IS APPROVED BY THE BOARD OF PUBLIC WORKS.

(D) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC–PRIVATE PARTNERSHIP THAT RESULTS IN THE STATE EXCEEDING ITS DEBT AFFORDABILITY GUIDELINES.

SUBTITLE 2. SOLICITED PROPOSALS.

10A–201.

(A) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A REPORTING AGENCY MAY NOT ISSUE A PUBLIC NOTICE OF SOLICITATION FOR A PUBLIC–PRIVATE PARTNERSHIP UNTIL A PRESOLICITATION REPORT CONCERNING THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP IS SUBMITTED TO THE COMPTROLLER, THE STATE TREASURER, THE BUDGET COMMITTEES, AND THE DEPARTMENT OF LEGISLATIVE SERVICES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.

(II) A REPORTING AGENCY MAY NOT ISSUE A PUBLIC NOTICE OF SOLICITATION FOR A PUBLIC–PRIVATE PARTNERSHIP FOR A TRANSPORTATION FACILITIES PROJECT, AS DEFINED IN § 4–101(H) OF THE TRANSPORTATION ARTICLE, UNTIL A PRESOLICITATION REPORT CONCERNING THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP IS SUBMITTED TO THE BUDGET COMMITTEES AND THE DEPARTMENT OF LEGISLATIVE SERVICES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.

(2) *(I)* THE BUDGET COMMITTEES MAY NOT HAVE MORE THAN 45 DAYS TO REVIEW AND COMMENT ON THE PRESOLICITATION REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(II) 1. IF THE TOTAL VALUE OF A PROPOSED PUBLIC–PRIVATE PARTNERSHIP REPORTED IN THE PRESOLICITATION REPORT UNDER PARAGRAPH (B)(1) OF THIS SUBSECTION EXCEEDS $500,000,000, THE BUDGET COMMITTEES MAY REQUEST AN ADDITIONAL 15 DAYS TO REVIEW AND COMMENT ON THE PRESOLICITATION REPORT.

2. THE REQUEST FOR ADDITIONAL TIME UNDER THIS SUBPARAGRAPH SHALL:

A. BE MADE IN WRITING TO THE GOVERNOR, THE DEPARTMENT OF BUDGET AND MANAGEMENT, AND THE REPORTING AGENCY; AND

B. INCLUDE THE REASON FOR THE REQUEST AND ANY PRELIMINARY ISSUES THE BUDGET COMMITTEES HAVE.

(B) (1) A PRESOLICITATION REPORT SHALL:

(I) STATE THE SPECIFIC POLICY, OPERATIONAL, AND FINANCIAL REASONS FOR PURSUING A PUBLIC–PRIVATE PARTNERSHIP;

(II) IDENTIFY THE ANTICIPATED *VALUE OF THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP*, RISKS AND BENEFITS TO THE STATE, AND ANY POTENTIAL WORKFORCE, ECONOMIC DEVELOPMENT, OR ENVIRONMENTAL IMPLICATIONS;

(III) EVALUATE, IF RELEVANT AND TO THE EXTENT NECESSARY, THE RISKS AND BENEFITS OF A PUBLIC–PRIVATE PARTNERSHIP, INCLUDING BENEFITS SUCH AS EXPEDITED ASSET DELIVERY, COST SAVINGS, RISK TRANSFER, NET NEW REVENUE, STATE–OF–THE–ART TECHNIQUES FOR ASSET DEVELOPMENT OR OPERATIONS, EFFICIENCY OF OPERATIONS, MAINTENANCE VIA INNOVATIVE MANAGEMENT TECHNIQUES, AND EXPERTISE IN ACCESSING AND ORGANIZING THE WIDEST RANGE OF FINANCIAL RESOURCES;

~~**(IV) INCLUDE, IF RELEVANT AND TO THE EXTENT POSSIBLE, A PRELIMINARY ANALYSIS ON DEBT AFFORDABILITY AND A STATEMENT OF INTENTION TO USE THE EXEMPTION FROM THE REQUIREMENTS OF DIVISION II OF THIS ARTICLE SET FORTH IN § 11–203 OF THIS ARTICLE;**~~

(IV) INCLUDE, IF RELEVANT AND TO THE EXTENT POSSIBLE, THE FOLLOWING INFORMATION PREPARED BY THE REPORTING AGENCY, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT:

1. A PRELIMINARY ANALYSIS ON DEBT AFFORDABILITY;

2. A PRELIMINARY SUMMARY OF THE PROPOSED SOLICITATION PROCESS; AND

3. A STATEMENT OF INTENTION TO USE THE EXEMPTION FROM THE REQUIREMENTS OF DIVISION II OF THIS ARTICLE SET FORTH IN § 11–203 OF THIS ARTICLE;

(V) WITHHOLD INFORMATION DEEMED CONFIDENTIAL, PROPRIETARY, OR OTHERWISE EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW, IN ACCORDANCE WITH § 10–617(D) OF THE STATE GOVERNMENT ARTICLE, RELATING TO:

1. CONFIDENTIAL COMMERCIAL INFORMATION;

2. CONFIDENTIAL FINANCIAL INFORMATION; AND

3. TRADE SECRETS; AND

(VI) BE POSTED ONLINE BY THE REPORTING AGENCY DURING THE ~~45–DAY~~ REVIEW PERIOD IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE ONLINE LOCATION OF THE PRESOLICITATION REPORT SHALL BE:

(I) ON THE WEB SITE OF THE REPORTING AGENCY; OR

(II) ON THE WEB SITE OF THE SPECIFIC PROJECT IF ONE HAS BEEN ESTABLISHED.

(3) THE REPORTING AGENCY SHALL INCLUDE IN THE MARYLAND REGISTER A BRIEF SYNOPSIS OF, AND A LINK TO, THE PRESOLICITATION REPORT.

(C) (1) AFTER THE BUDGET ~~COMMITTEES HAVE HAD 45 DAYS TO~~ *COMMITTEES'* REVIEW AND COMMENT *PERIOD* ON THE PRESOLICITATION REPORT AND BEFORE ISSUING A PUBLIC NOTICE OF SOLICITATION, A REPORTING AGENCY SHALL SEEK THE OFFICIAL DESIGNATION BY THE BOARD OF PUBLIC WORKS OF THE PUBLIC INFRASTRUCTURE ASSET AS A PUBLIC–PRIVATE PARTNERSHIP AND APPROVAL OF THE SOLICITATION METHOD.

(2) THE REQUEST FOR OFFICIAL DESIGNATION AND APPROVAL SHALL:

(I) INCLUDE A COPY OF THE PRESOLICITATION REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION;

(II) DESCRIBE THE PROCESS FOR SOLICITING, EVALUATING, SELECTING, AND AWARDING THE PUBLIC–PRIVATE PARTNERSHIP;

(III) INCLUDE A PRELIMINARY SOLICITATION SCHEDULE;

(IV) OUTLINE THE ORGANIZATION AND CONTENTS OF THE PUBLIC NOTICE OF SOLICITATION;

(V) PROVIDE A SUMMARY OF THE KEY TERMS OF THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT; AND

(VI) INCLUDE ANY OTHER INFORMATION OR REQUESTS DETERMINED TO BE RELEVANT BY THE REPORTING AGENCY.

10A–202.

(A) IF A REPORTING AGENCY INTENDS TO ESTABLISH A PUBLIC–PRIVATE PARTNERSHIP UNDER § 10A–103 OF THIS TITLE, THE REPORTING AGENCY SHALL ISSUE A PUBLIC NOTICE OF SOLICITATION FOR THE PUBLIC–PRIVATE PARTNERSHIP.

(B) (1) A PRIVATE ENTITY MAY BE QUALIFIED AS A BIDDER THROUGH A REQUEST FOR QUALIFICATIONS~~, A REQUEST FOR INFORMATION, OR ANY OTHER SIMILAR PROCESS~~.

(2) AFTER A BIDDER IS QUALIFIED AND AT ANY TIME BEFORE THE AWARD OF THE PUBLIC–PRIVATE PARTNERSHIP AGREEMENT, A REPORTING AGENCY MAY ENGAGE IN DISCUSSIONS WITH QUALIFIED BIDDERS.

(3) THESE DISCUSSIONS MAY BE HELD TO:

(I) OBTAIN COMMENTS AND MAKE REVISIONS TO SOLICITATION DOCUMENTS;

(II) OBTAIN THE BEST ~~PRICE~~ VALUE FOR THE STATE; AND

(III) ENSURE FULL UNDERSTANDING OF:

1. THE REQUIREMENTS OF THE STATE, AS SET FORTH IN THE REQUEST FOR PROPOSALS; AND

2. THE PROPOSAL SUBMITTED BY THE BIDDER.

(C) FOR ANY PRIVATE ENTITY THAT RESPONDS TO THE PUBLIC NOTICE OF SOLICITATION, A REPORTING AGENCY SHALL MAKE A RESPONSIBILITY DETERMINATION.

(D) IF A PRIVATE ENTITY IS COMPOSED OF MULTIPLE SUBENTITIES OR PARTNERS, THE REPORTING AGENCY SHALL MAKE A RESPONSIBILITY DETERMINATION FOR EACH SUBENTITY OR PARTNER OWNING 20% OR MORE OF THE ENTITY.

(E) ANY CHANGES IN THE OWNERSHIP COMPOSITION OF A PUBLIC–PRIVATE PARTNERSHIP, AS DESCRIBED IN SUBSECTION ~~(C)~~ (D) OF THIS SECTION, REQUIRE:

(1) A RESPONSIBILITY DETERMINATION;

(2) 45 ~~DAYS'~~ ~~DAYS~~ *DAYS'* NOTICE TO THE BUDGET COMMITTEES; AND

(3) APPROVAL BY THE BOARD OF PUBLIC WORKS.

(F) (1) A REPORTING AGENCY MAY REIMBURSE A PRIVATE ENTITY FOR THE PORTION OF THE ENTITY'S COSTS INCURRED ~~TO DEVELOP A RESPONSE TO A PUBLIC NOTICE OF A SOLICITATION~~ IN RESPONSE TO THE SOLICITATION OF A PUBLIC–PRIVATE PARTNERSHIP.

(2) A REPORTING AGENCY SHALL ADOPT REGULATIONS THAT ESTABLISH THE PROCESS FOR REIMBURSING A PRIVATE ENTITY UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) REGULATIONS ADOPTED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL:

(I) PROVIDE FOR THE REIMBURSEMENT OF A PRIVATE ENTITY BASED ON THE DOLLAR VALUE OF A PROJECT, THE VALUE OF ANY WORK PRODUCT RECEIVED FROM THE PRIVATE ENTITY, OR ANY OTHER METHOD FOR CALCULATING SUCH REIMBURSEMENT; AND

(II) SPECIFY A MAXIMUM DOLLAR AMOUNT THAT A REPORTING AGENCY MAY REIMBURSE A PRIVATE ENTITY FOR COSTS INCURRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(4) A REPORTING AGENCY MAY PAY A PRIVATE ENTITY THAT SUBMITS AN UNSUCCESSFUL PROPOSAL FOR THE RIGHT TO USE THE PRIVATE ENTITY'S WORK PRODUCT.

(5) A REPORTING AGENCY MAY NOT REIMBURSE A PRIVATE ENTITY FOR ANY PORTION OF THE COSTS INCURRED TO DEVELOP A RESPONSE TO A PUBLIC NOTICE OF SOLICITATION IF:

(I) THE PRIVATE ENTITY ENTERS INTO A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT WITH THE REPORTING AGENCY; AND

(II) THE PUBLIC–PRIVATE PARTNERSHIP AGREEMENT ENTERED INTO UNDER ITEM (I) OF THIS PARAGRAPH IS APPROVED BY THE BOARD OF PUBLIC WORKS~~; AND~~

~~(III) THE PUBLIC NOTICE OF SOLICITATION IS THE SUBJECT OF THE PUBLIC–PRIVATE PARTNERSHIP AGREEMENT APPROVED BY THE BOARD OF PUBLIC WORKS UNDER ITEM (II) OF THIS PARAGRAPH.~~

~~(G) A REPORTING AGENCY SHALL SUBMIT A COPY OF THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT SIMULTANEOUSLY TO THE COMPTROLLER, THE STATE TREASURER, THE BUDGET COMMITTEES, AND THE DEPARTMENT OF LEGISLATIVE SERVICES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.~~

10A–203.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT UNTIL:

(I) A COPY OF THE PROPOSED AGREEMENT IS SUBMITTED SIMULTANEOUSLY TO THE COMPTROLLER, THE STATE TREASURER, THE BUDGET COMMITTEES, AND THE DEPARTMENT OF LEGISLATIVE SERVICES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE;

(II) THE STATE TREASURER, IN COORDINATION WITH THE COMPTROLLER, ANALYZES THE IMPACT ON THE STATE'S CAPITAL DEBT AFFORDABILITY LIMITS OF THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT;

(III) THE STATE TREASURER SUBMITS THE ANALYSIS TO THE BUDGET COMMITTEES AND THE DEPARTMENT OF LEGISLATIVE SERVICES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE; AND

(IV) THE BUDGET COMMITTEES HAVE REVIEWED AND COMMENTED ON THE AGREEMENT IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

(2) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT FOR A TRANSPORTATION FACILITIES PROJECT, AS DEFINED IN § 4–101(H) OF THE TRANSPORTATION ARTICLE, UNTIL THE PROPOSED AGREEMENT IS SUBMITTED TO THE BUDGET COMMITTEES AND THE DEPARTMENT OF LEGISLATIVE SERVICES, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.

(3) (I) THE PERIOD FOR REVIEW, ANALYSIS, AND COMMENT UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION MAY NOT EXCEED A TOTAL OF 30 DAYS FROM THE DATE THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT IS SUBMITTED SIMULTANEOUSLY TO THE STATE TREASURER, THE COMPTROLLER, THE BUDGET COMMITTEES, AND THE DEPARTMENT OF LEGISLATIVE SERVICES.

(II) THE BUDGET COMMITTEES MAY FACILITATE A FASTER REVIEW AND COMMENT PERIOD BY SENDING A LETTER TO THE BOARD OF PUBLIC WORKS SUPPORTING A PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT IN ADVANCE OF THE EXPIRATION OF THE 30–DAY REVIEW PERIOD.

(B) (1) THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT MADE AVAILABLE TO THE PUBLIC SHALL:

(I) ~~MAY~~ AFTER CONSULTATION WITH THE PRIVATE ENTITY, WITHHOLD INFORMATION DEEMED CONFIDENTIAL, PROPRIETARY, OR OTHERWISE EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW, INCLUDING IN ACCORDANCE WITH § 10–617(D) OF THE STATE GOVERNMENT ARTICLE, RELATING TO:

1. CONFIDENTIAL COMMERCIAL INFORMATION;

2. CONFIDENTIAL FINANCIAL INFORMATION; AND

3. TRADE SECRETS; AND

(II) ~~SHALL~~ BE POSTED ONLINE BY THE REPORTING AGENCY DURING THE 30–DAY REVIEW PERIOD IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE ONLINE LOCATION OF THE PROPOSED PUBLIC–PRIVATE PARTNERSHIP AGREEMENT SHALL BE:

(I) ON THE WEB SITE OF THE REPORTING AGENCY; OR

(II) ON THE WEB SITE OF THE SPECIFIC PROJECT IF ONE HAS BEEN ESTABLISHED.

10A–204.

(A) THE REPORTING AGENCY SHALL POST THE FINAL PUBLIC–PRIVATE PARTNERSHIP AGREEMENT ON THE WEB SITE OF THE REPORTING AGENCY OR THE WEB SITE OF THE SPECIFIC PROJECT IF ONE HAS BEEN ESTABLISHED.

(B) INFORMATION DEEMED ~~PROPRIETARY~~ CONFIDENTIAL, PROPRIETARY, OR OTHERWISE EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW ~~MAY~~ SHALL BE WITHHELD FROM THE POSTED VERSION OF THE FINAL PUBLIC–PRIVATE PARTNERSHIP AGREEMENT IN ACCORDANCE WITH § 10–617(D) OF THE STATE GOVERNMENT ARTICLE RELATING TO:

(1) A TRADE SECRET;

(2) CONFIDENTIAL COMMERCIAL INFORMATION; AND

(3) CONFIDENTIAL FINANCIAL INFORMATION.

SUBTITLE 3. UNSOLICITED PROPOSALS.

10A–301.

(A) A REPORTING AGENCY MAY ACCEPT, REJECT, OR EVALUATE AN UNSOLICITED PROPOSAL FOR A PUBLIC–PRIVATE PARTNERSHIP THAT WILL ASSIST THE REPORTING AGENCY IN IMPLEMENTING ITS FUNCTIONS IN A MANNER CONSISTENT WITH STATE POLICY.

(B) A REPORTING AGENCY SHALL ESTABLISH THE PROCESS FOR DETERMINING WHETHER AN UNSOLICITED PROPOSAL MEETS A NEED OF THE REPORTING AGENCY OR IS OTHERWISE ADVANTAGEOUS TO THE REPORTING AGENCY.

(C) (1) A REPORTING AGENCY MAY ESTABLISH BY REGULATION AN APPLICATION FEE FOR SUBMITTING AN UNSOLICITED PROPOSAL.

(2) FOR AN UNSOLICITED PROPOSAL THAT DOES NOT ADDRESS A PROJECT ALREADY IN THE STATE'S CAPITAL IMPROVEMENT PROGRAM OR CONSOLIDATED TRANSPORTATION PROGRAM PLANNING DOCUMENTS, A REPORTING AGENCY MAY REQUIRE A HIGHER APPLICATION FEE.

(D) IF A REPORTING AGENCY DETERMINES THAT AN UNSOLICITED PROPOSAL MEETS A NEED OF THE REPORTING AGENCY OR IS OTHERWISE ADVANTAGEOUS TO THE REPORTING AGENCY, THE REPORTING AGENCY SHALL:

(1) CONDUCT A COMPETITIVE ~~SEALED BID OR A COMPETITIVE SEALED PROPOSAL PROCESS~~ *SOLICITATION PROCESS AS DESCRIBED UNDER SUBTITLE 2 OF THIS TITLE*;

(2) PROTECT PROPRIETARY INFORMATION INCLUDED IN THE UNSOLICITED PROPOSAL TO THE SAME EXTENT PROPRIETARY INFORMATION IS PROTECTED UNDER § ~~10A–201(B)~~ *10A–203(B)* OF THIS TITLE; AND

(3) COMPLY WITH ALL OF THE OTHER PROCEDURAL REQUIREMENTS SET FORTH IN THIS TITLE.

(E) AN INDIVIDUAL OR FIRM THAT HAS SUBMITTED AN UNSOLICITED PROPOSAL UNDER THIS TITLE MAY PARTICIPATE IN ANY SUBSEQUENT COMPETITIVE ~~BID OR COMPETITIVE SEALED PROPOSAL~~ SOLICITATION PROCESS.

SUBTITLE 4. PUBLIC–PRIVATE PARTNERSHIP AGREEMENTS.

10A–401.

(A) WHENEVER APPLICABLE, A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT SHALL INCLUDE THE FOLLOWING PROVISIONS:

(1) THE METHOD AND TERMS FOR APPROVAL OF ANY ASSIGNMENT, REASSIGNMENT, OR OTHER TRANSFER OF INTEREST RELATED TO THE PUBLIC–PRIVATE PARTNERSHIP AGREEMENT;

(2) THE METHODS AND TERMS FOR SETTING AND ADJUSTING TOLLS, FARES, FEES, AND OTHER CHARGES RELATED TO THE PUBLIC INFRASTRUCTURE ASSET;

(3) THE METHOD AND TERMS FOR REVENUE–SHARING OR OTHER SHARING IN FEES OR CHARGES, IN WHICH THE PUBLIC PARTICIPATES IN THE FINANCIAL UPSIDE OF ASSET PERFORMANCE OF THE PUBLIC INFRASTRUCTURE ASSET;

(4) MINIMUM QUALITY STANDARDS, PERFORMANCE CRITERIA, INCENTIVES, AND DISINCENTIVES;

(5) OPERATIONS AND MAINTENANCE STANDARDS;

(6) THE RIGHTS FOR INSPECTION BY THE STATE;

(7) THE TERMS AND CONDITIONS UNDER WHICH THE REPORTING AGENCY MAY PROVIDE SERVICES FOR A FEE SUFFICIENT TO COVER BOTH DIRECT AND INDIRECT COSTS;

(8) PROVISIONS FOR OVERSIGHT AND REMEDIES AND PENALTIES FOR DEFAULT;

(9) THE TERMS AND CONDITIONS UNDER WHICH THE REPORTING AGENCY ORIGINATING THE PUBLIC–PRIVATE PARTNERSHIP SHALL BE RESPONSIBLE FOR ONGOING OVERSIGHT;

~~(10) THE TERMS AND CONDITIONS UNDER WHICH FINANCIAL RECORDS AND PERFORMANCE RELATED TO THE PUBLIC–PRIVATE PARTNERSHIP, AS WELL AS ANNUAL AUDITED FINANCIAL STATEMENTS OF THE PRIVATE ENTITY, ARE SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS NO MORE THAN EVERY 3 YEARS;~~

(10) THE TERMS AND CONDITIONS FOR AUDITS BY THE STATE, INCLUDING THE OFFICE OF LEGISLATIVE AUDITS, RELATED TO THE AGREEMENT'S FINANCIAL RECORDS AND PERFORMANCE;

(11) THE TERMS AND CONDITIONS UNDER WHICH THE PUBLIC INFRASTRUCTURE ASSETS SHALL BE RETURNED TO THE STATE AT THE EXPIRATION OR TERMINATION OF THE AGREEMENT; AND

(12) REQUIREMENTS FOR THE PRIVATE ENTITY TO PROVIDE PERFORMANCE AND PAYMENT SECURITY IN A FORM AND IN AN AMOUNT DETERMINED BY THE RESPONSIBLE PUBLIC ENTITY, EXCEPT THAT REQUIREMENTS FOR THE PAYMENT SECURITY FOR CONSTRUCTION CONTRACTS SHALL BE IN ACCORDANCE WITH TITLE 17, SUBTITLE 1 OF THIS ARTICLE, INCLUDING THE REQUIREMENT THAT PAYMENT SECURITY SHALL BE ESTABLISHED ON THE VALUE OF THE CONSTRUCTION ELEMENTS OF THE PUBLIC–PRIVATE PARTNERSHIP AGREEMENT AND NOT ON THE TOTAL VALUE OF THE PUBLIC–PRIVATE PARTNERSHIP AGREEMENT.

(B) (1) A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT MAY INCLUDE A PROVISION THAT, EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, COMPENSATION MAY BE PROVIDED FOR COMPETING INFRASTRUCTURE DEVELOPMENTS THAT DIRECTLY RESULT IN A DOCUMENTED REVENUE LOSS FOR THE PRIVATE ENTITY IN A PUBLIC–PRIVATE PARTNERSHIP.

(2) COMPENSATION MAY NOT BE PROVIDED AS A RESULT OF STATE INFRASTRUCTURE DEVELOPMENTS ALREADY IN THE STATE'S CAPITAL IMPROVEMENT PROGRAM OR CONSOLIDATED TRANSPORTATION PROGRAM PLANNING DOCUMENTS AT THE TIME THE PUBLIC–PRIVATE PARTNERSHIP AGREEMENT IS EXECUTED, SAFETY INITIATIVES, INFRASTRUCTURE IMPROVEMENTS WITH MINIMAL CAPACITY INCREASES, OR INFRASTRUCTURE FOR OTHER TRANSPORTATION MODES THAT ARE NOT THE SUBJECT OF THE PUBLIC–PRIVATE PARTNERSHIP.

(C) A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT MAY NOT INCLUDE A NONCOMPETE CLAUSE FOR PUBLIC–PRIVATE PARTNERSHIP PROJECTS INVOLVING ROAD, HIGHWAY, OR BRIDGE ASSETS.

10A–402.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT MAY NOT EXCEED 50 YEARS, INCLUDING ALL RENEWALS AND EXTENSIONS.

(B) THE BOARD OF PUBLIC WORKS MAY:

(1) WAIVE THE PROHIBITION SET FORTH IN SUBSECTION (A) OF THIS SECTION IF THE BOARD DETERMINES THAT THE REPORTING AGENCY HAS DEMONSTRATED SUFFICIENT REASON FOR THE AGREEMENT TO HAVE A LONGER TERM; AND

(2) WAIVE THE PROHIBITION SET FORTH IN SUBSECTION (A) OF THIS SECTION AT ANY POINT DURING THE PRESOLICITATION, PROPOSAL REVIEW, OR AGREEMENT NEGOTIATIONS PROCESS.

11–203.

(H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS DIVISION DOES NOT APPLY TO A PUBLIC–PRIVATE PARTNERSHIP UNDER TITLE 10A OF THIS ARTICLE.

(2) TO THE EXTENT OTHERWISE REQUIRED BY LAW, THE FOLLOWING PROVISIONS OF THIS DIVISION APPLY TO A PUBLIC–PRIVATE PARTNERSHIP UNDER TITLE 10A OF THIS ARTICLE:

(I) § 11–205 OF THIS SUBTITLE ("COLLUSION");

(II) § 11–205.1 OF THIS SUBTITLE ("FALSIFICATION, CONCEALMENT, ETC. OF MATERIAL FACTS");

(III) TITLE 12, SUBTITLE 4 OF THIS ARTICLE ("POLICIES AND PROCEDURES FOR EXEMPT UNITS");

(IV) § 13–219 OF THIS ARTICLE ("REQUIRED CLAUSES – NONDISCRIMINATION CLAUSE");

(V) TITLE 17, SUBTITLE 1 OF THIS ARTICLE ("SECURITY FOR CONSTRUCTION CONTRACTS");

(VI) TITLE 17, SUBTITLE 2 OF THIS ARTICLE ("PREVAILING WAGE RATES – PUBLIC WORK CONTRACTS"); AND

~~(VI)~~ (VII) TITLE 18 OF THIS ARTICLE ("LIVING WAGE").

Article – Transportation

[4–406.

(a) (1) In this section the following words have the meanings indicated.

(2) "Budget committees" means the Senate Budget and Taxation Committee, the House Committee on Ways and Means, and the House Appropriations Committee.

(3) "Private entity" means an individual, a corporation, a general or limited partnership, a limited liability company, a joint venture, a business trust, a public benefit corporation, a nonprofit entity, or another business entity.

(4) "Public notice of solicitation" includes a request for expressions of interest, a request for proposals, a memorandum of understanding, an interim development agreement, a letter of intent, or a preliminary development plan.

(5) (i) "Public–private partnership" means a sale or lease agreement between the Authority and a private entity under which:

1. The private entity assumes control of the operation and maintenance of an existing State facility; or

2. The private entity constructs, reconstructs, finances, or operates a State facility or a facility for State use and will collect fees, charges, rents, or tolls for the use of the facility.

(ii) "Public–private partnership" does not include:

1. A short–term operating space lease entered into in the ordinary course of business by the Authority and a private entity; or

2. A procurement governed by Division II of the State Finance and Procurement Article.

(b) Following the submission of each of the reports required under this section, the budget committees shall have 45 days to review and comment on the reports.

(c) (1) Not less than 45 days before issuing a public notice of solicitation for a public–private partnership, the Authority shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, a report concerning the proposed public–private partnership.

(2) By January 1 of each year, the Authority shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, a report concerning each public–private partnership under consideration at that time by the Authority that has not been reviewed or approved previously by the General Assembly.

(3) By January 1 of each year, the Authority shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, a status report concerning each existing public–private partnership in which the Authority is involved.

(d) By January 1 of each year, the Authority shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, a report concerning each public–private partnership for which the Authority is providing conduit financing.

(e) Not less than 30 days before entering into a public–private partnership agreement, the Authority shall submit to the budget committees, in accordance with § 2–1246 of the State Government Article, an analysis of the impact of the proposed public–private partnership agreement on the Authority's financing plan, including the Authority's operating and capital budgets and debt capacity.

(f) The Board of Public Works may not approve a public–private partnership agreement under § 10–305 or § 12–204 of the State Finance and Procurement Article that the Authority proposes to enter into until the budget committees have had 30 days to review and comment on the Authority's analysis of the agreement required under subsection (e) of this section.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

10A–403.

(A) THE FINDINGS AND EVIDENCE RELIED ON BY THE GENERAL ASSEMBLY FOR THE CONTINUATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE, AS ENACTED BY CHAPTER 253 OF THE ACTS OF 2011 AND CHAPTER 154 OF THE ACTS OF 2012, ARE HEREBY INCORPORATED.

(B) TO THE EXTENT PRACTICABLE AND PERMITTED BY THE UNITED STATES CONSTITUTION, THE PROVISIONS OF THE MINORITY BUSINESS ENTERPRISE PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE SHALL APPLY TO PUBLIC–PRIVATE PARTNERSHIPS ESTABLISHED UNDER THIS TITLE.

(C) (1) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC–PRIVATE PARTNERSHIP AGREEMENT UNDER § 10A–203 OF THIS TITLE UNTIL THE REPORTING AGENCY, IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE OFFICE OF THE ATTORNEY GENERAL, AND THE PRIVATE ENTITY, IF PERMISSIBLE, ESTABLISHES REASONABLE AND APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS AND PROCEDURES FOR THE PROJECT.

(2) TO THE EXTENT PRACTICABLE, GOALS AND PROCEDURES ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON THE REQUIREMENTS OF:

(I) TITLE 14, SUBTITLE 3 OF THIS ARTICLE, INCLUDING THE IMPLEMENTATION OF REGULATIONS ADOPTED UNDER §§ 14–302 AND 14–303 OF THIS ARTICLE; AND

(II) REGULATIONS ADOPTED SPECIFICALLY TO IMPLEMENT THIS SECTION.

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply only to public–private partnerships established on or after the effective date of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is intended to be prospective only and shall apply to public–private partnerships established on or after the effective date of this Act. Further provided that, nothing in this Act may be construed to apply to, authorize, or have any effect on an existing procurement, lease, sale or development agreement, and nothing in this Act is intended to affect or alter any pending litigation.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of 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, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 6

(Senate Bill 6)

AN ACT concerning

Dorchester County – Restriction on Sunday Gaming – Repeal

FOR the purpose of repealing a restriction that limits a certain gaming licensee in Dorchester County from holding a gaming event or carnival on a Sunday; and generally relating to Sunday charitable gaming in Dorchester County.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 13–1202 and 13–1203(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 13–1204
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

13–1202.

(a) This subtitle applies only in Dorchester County.

(b) Subtitle 2 of this title applies in Dorchester County.

13–1203.

(a) A person must have a license for each day that the person conducts bingo unless the bingo is conducted in a licensed gaming event.

13–1204.

[(a) A license issued under this subtitle may not authorize a game or carnival on a Sunday.

(b)**]** An individual under the age of 16 years may not be allowed to play, conduct, or operate bingo.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 7

(House Bill 69)

AN ACT concerning

Dorchester County – Restriction on Sunday Gaming – Repeal

FOR the purpose of repealing a restriction that limits a certain gaming licensee in Dorchester County from holding a gaming event or carnival on a Sunday; and generally relating to Sunday charitable gaming in Dorchester County.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 13–1202 and 13–1203(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 13–1204
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

13–1202.

(a) This subtitle applies only in Dorchester County.

(b) Subtitle 2 of this title applies in Dorchester County.

13–1203.

(a) A person must have a license for each day that the person conducts bingo unless the bingo is conducted in a licensed gaming event.

13–1204.

[(a) A license issued under this subtitle may not authorize a game or carnival on a Sunday.

(b)**]** An individual under the age of 16 years may not be allowed to play, conduct, or operate bingo.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 8

(Senate Bill 14)

AN ACT concerning

Utility Service Protection Program – Annual Report – Deadline

FOR the purpose of altering the date by which the Public Service Commission must report each year to the General Assembly on terminations of gas or electric service occurring during the previous heating season; and generally relating to the Utility Service Protection Program.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–307(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–307(c)
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

7–307.

(a) In this section, "termination of service" means the termination, reduction, or refusal to reinstate gas or electric service, or any other action that has the effect of reducing or denying gas or electric service because of nonpayment.

(c) (1) In accordance with § 2–1246 of the State Government Article, on or before **[**June 1**]** **SEPTEMBER 1** of each year, the Commission shall report to the General Assembly on terminations of service by public service companies during the previous heating season.

(2) The report shall include information in sufficient detail to indicate the effect of the terminations of service on various categories of customers, including:

(i) income levels;

(ii) geographic areas;

(iii) energy assistance recipients; and

(iv) any other category that the Commission determines is relevant to evaluate how the State may best address the problem of assuring adequate gas and electric service for low income residential customers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 9

(Senate Bill 55)

AN ACT concerning

Private Career Schools – Solicitor Permits – Repeal

FOR the purpose of repealing the requirement that a solicitor for a private career school located outside the State obtain a permit from the Maryland Higher Education Commission; and generally relating to requirements for solicitors for private career schools.

BY repealing
Article – Education
Section 11–402
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

[11–402.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "School" means a private career school located outside the State.

(ii) "School" does not include a private career school that operates in the State pursuant to a certificate of approval issued under § 11–202(b) of this title.

(3) "Solicitor" means a person engaged in the business, for compensation, of soliciting or offering to solicit students in this State to enroll in or apply for a program offered by a school.

(b) A person may not act as a solicitor unless such person has a permit issued under this section.

(c) (1) A person wishing to act as a solicitor shall apply to the Commission for a permit.

(2) The application shall be made on the forms the Commission provides, shall contain the information the Commission requires, and shall be accompanied by:

(i) A copy of each type of contract offered by the solicitor to prospective students; and

(ii) Any advertising materials and other representations that are made by the school to its students or prospective students.

(d) Each permit issued under this section expires on June 30 after its issuance and may be renewed annually on application and payment of the required fee.

(e) (1) The Commission shall consider the application and accompanying material.

(2) If the Commission approves the application, it shall issue a permit to the solicitor, on payment of an initial fee of $25. The renewal fee is $25.

(f) After notice to the solicitor and an opportunity for a hearing, the Commission may revoke the solicitor's permit for:

(1) Violation of a contract with a student; or

(2) Any other good cause.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 10

(Senate Bill 56)

AN ACT concerning

Unauthorized Institutions of Postsecondary Education – Transcripts, Diplomas, and Grade Reports – Penalties

FOR the purpose of prohibiting a person from buying, selling, distributing, using, offering, or presenting as genuine a transcript, diploma, or grade report of an entity that represents itself as an institution of postsecondary education if the entity is not authorized to operate as an institution of post secondary education in the State or another state or country; and generally relating to transcripts, diplomas, and grade reports of unauthorized institutions of postsecondary education.

BY repealing and reenacting, with amendments,
Article – Education
Section 26–301
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

26–301.

(a) (1) A person may not falsely make, falsely alter, forge, counterfeit, or cause or procure to be falsely made, falsely altered, forged, or counterfeited, or willingly aid or assist in falsely making, falsely altering, forging, or counterfeiting a transcript, diploma, or grade report of an institution of postsecondary education.

(2) A person may not knowingly buy, sell, distribute, use, offer, or present as genuine a false, forged, counterfeited, or altered transcript, diploma, or grade report of an institution of postsecondary education.

(3) A PERSON MAY NOT BUY, SELL, DISTRIBUTE, USE, OFFER, OR PRESENT AS GENUINE A TRANSCRIPT, DIPLOMA, OR GRADE REPORT OF AN ENTITY THAT REPRESENTS ITSELF AS AN INSTITUTION OF POSTSECONDARY EDUCATION IF THE PERSON KNOWS OR HAS REASON TO KNOW THE ENTITY IS NOT AUTHORIZED TO OPERATE AS AN INSTITUTION OF POSTSECONDARY EDUCATION IN THE STATE OR IN ANOTHER STATE OR COUNTRY.

[(3)**] (4)** A person may not use, offer or present a transcript, diploma, or grade report of an institution of postsecondary education in a fraudulent manner.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000, or imprisonment not exceeding 6 months, or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 11

(Senate Bill 60)

AN ACT concerning

Community Development Administration – Residential Mortgage Loans – Financial Assistance for Families of Limited Income

FOR the purpose of authorizing the Community Development Administration in the Department of Housing and Community Development to award certain grants; authorizing the Administration to make, participate in making, and undertake a commitment for financial assistance to a family of limited income for certain purposes; requiring the Secretary of Housing and Community Development to determine the terms and qualifications of the financial assistance provided under this Act; and generally relating to financial assistance awarded by the Community Development Administration to families of limited income.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–206 and 4–235

Annotated Code of Maryland
(2006 Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Housing and Community Development

4–206.

(a) Except as provided in subsection (b) of this section, a grant of land or money may be made only to a political subdivision, a local development entity, a local development agency, or a nonprofit organization.

(b) (1) This section does not apply to grants that may be awarded to the Administration under federal law.

(2) The Administration may award grants to home buyers for settlement expenses as provided by the Department under this title.

(3) THE ADMINISTRATION MAY AWARD GRANTS UNDER § ~~4–235(B)(2)~~ 4–235(B)(1)(II) OF THIS SUBTITLE.

4–235.

(a) (1) In this section the following words have the meanings indicated.

(2) "Mortgage loan" includes a loan to:

(i) finance or refinance the purchase of stock or membership in a cooperative ownership housing corporation; or

(ii) rehabilitate units in a cooperative ownership housing corporation.

(3) "Reverse equity mortgage loan" includes a loan that uses the equity in a home as collateral.

(b) **(1)** The Administration may make, participate in making, and undertake a commitment for**:**

(I) a residential mortgage loan to a family of limited income:

[(1)**]** **1.** for a family that has a disabled family member who will reside in the dwelling;

[(2)**]** **2.** for an emergency housing need as determined by the Secretary;

[(3)**]** **3.** for settlement and down payment costs; or

[(4)**]** **4.** that is made in conjunction with a loan funded with State appropriated funds if the State appropriated funded loan comprises at least 20% of the total amount loaned**[**.**]; AND**

(II) FINANCIAL ASSISTANCE TO A FAMILY OF LIMITED INCOME:

1. FOR MAINTAINING OR MODIFYING THEIR EXISTING RESIDENTIAL MORTGAGE LOAN; OR

2. THAT IS MADE IN CONJUNCTION WITH A NEW RESIDENTIAL MORTGAGE LOAN TO ENABLE A HOMEOWNER TO REFINANCE AN EXISTING RESIDENTIAL MORTGAGE LOAN.

(2) THE SECRETARY SHALL DETERMINE THE TERMS AND QUALIFICATIONS FOR FINANCIAL ASSISTANCE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

(c) (1) In accordance with § 4–213 of this subtitle, the Administration may make, participate in making, purchase, and undertake a commitment for:

(i) a mortgage loan or other financial assistance secured by a mortgage lien for a community development project or public purpose project; and

(ii) a reverse equity mortgage loan secured by a mortgage lien that is for housing related expenses of an elderly household that qualifies as a family of limited income.

(2) Financial assistance to purchase a dwelling unit in a community development project or public purpose project under paragraph (1)(i) of this subsection may include a temporary loan or advance and a permanent direct mortgage loan to a family of limited income, if otherwise required by law.

(3) Housing related expenses under paragraph (1)(ii) of this subsection include personal expenses that enable the owner to continue to occupy the owner's home.

(d) (1) A commitment, mortgage, bond, or secured note shall contain terms and conditions necessary to secure repayment of its loan, the interest on it, and other charges in connection with the loan.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a mortgage loan for a community development project or a public purpose project and a reverse equity mortgage loan may bear interest at a rate or rates that the Administration finds will make the project economically feasible.

(ii) The Administration may not increase the interest rate originally charged on a permanent direct mortgage loan to a family for the purchase of a dwelling unit in a community development project or a public purpose project.

(3) Subject to any agreement with noteholders or bondholders, the Administration may consent to the modification of the interest rate, time of payment of any installment of principal or interest, security, or any other term, of a mortgage, mortgage loan, reverse equity mortgage loan, mortgage loan commitment, or reverse equity mortgage loan commitment, contract, or agreement to which the Administration is a party.

(e) In connection with property on which it holds a mortgage loan or reverse equity mortgage loan:

(1) the Administration may:

(i) foreclose on the property or begin an action to protect or enforce a right that is conferred on the Administration by law, a mortgage contract, or other agreement;

(ii) bid for and purchase the property at a foreclosure or other sale; or

(iii) acquire or take possession of the property; and

(2) in a manner to protect the interests of the Administration, the Administration may:

(i) complete, administer, and pay the principal of and interest on an obligation incurred in connection with the property;

(ii) dispose of the property; and

(iii) otherwise deal with the property.

(f) (1) This subsection does not apply to a lien held in connection with a public purpose project.

(2) The Administration may not lend money on the security of property unless the lien on the property is superior to all other liens, except for:

(i) liens for taxes owed to the State or a political subdivision; or

(ii) earlier mortgage liens.

(g) The Administration may:

(1) sell any mortgage or other obligation that it holds, at public or private sale, with or without public bidding; and

(2) retain the servicing rights and charge servicing fees for any mortgage or other obligation the Administration sells.

(h) The Administration may purchase securities backed by mortgages to provide financial assistance to community development projects and public purpose projects and to finance residential mortgage loans with the proceeds of the securities or with investment earnings on the securities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 12

(Senate Bill 61)

AN ACT concerning

Environment – Public Hearings – Notice Requirement

FOR the purpose of altering the contents of a certain notice until a certain date; authorizing the Department of the Environment to comply with a certain requirement to publish notice of certain public hearings by publishing the notice on its Web site instead of in a certain newspaper beginning on a certain date; requiring the Department to publish a certain annual notice in a certain newspaper beginning on a certain date; and generally relating to notice of public hearings by the Department of the Environment.

BY repealing and reenacting, with amendments,
Article – Environment
Section 2–303
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

2–303.

(a) The Department may not adopt any rule or regulation under this title unless the requirements of this section and the Administrative Procedure Act are met.

(b) Before adopting any rule or regulation under this title, the Department shall announce and hold a public hearing on the subject.

(c) (1) ~~At~~ **UNTIL OCTOBER 1, 2014, AT** least 30 days before the public hearing, the Department shall publish notice of the hearing in a newspaper of general circulation in the area concerned ~~OR ON THE DEPARTMENT'S WEB SITE~~.

(2) The notice **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION** shall state:

(i) The date, time, and place of the hearing; ~~and~~

(ii) The purpose of the hearing**;**

(III) THAT, BEGINNING ON OCTOBER 1, 2014, ALL FUTURE NOTICES REQUIRED UNDER THIS TITLE WILL BE POSTED ON THE DEPARTMENT'S WEB SITE; AND

(IV) A PHONE NUMBER OR ELECTRONIC MAIL ADDRESS AT THE DEPARTMENT THAT A PERSON CAN CONTACT TO ARRANGE FOR THE RECEIPT OF FUTURE PUBLIC NOTICES REQUIRED UNDER THIS TITLE BY FIRST–CLASS MAIL OR ELECTRONIC MAIL.

(3) BEGINNING ON OCTOBER 1, 2014, AT LEAST 30 DAYS BEFORE THE PUBLIC HEARING, THE DEPARTMENT SHALL PUBLISH NOTICE OF THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA CONCERNED OR ON THE DEPARTMENT'S WEB SITE.

(4) THE NOTICE REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL STATE:

(I) THE DATE, TIME, AND PLACE OF THE HEARING; AND

(II) THE PURPOSE OF THE HEARING.

(D) BEGINNING ON OCTOBER 1, 2014, THE DEPARTMENT SHALL PUBLISH ANNUALLY A NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION TO INFORM THE PUBLIC OF:

(1) THE TYPES OF PUBLIC NOTICES REQUIRED UNDER THIS TITLE THAT ARE AVAILABLE ON THE DEPARTMENT'S WEB SITE; AND

(2) A PHONE NUMBER OR ELECTRONIC MAIL ADDRESS AT THE DEPARTMENT THAT A PERSON CAN CONTACT TO ARRANGE FOR THE RECEIPT OF FUTURE PUBLIC NOTICES REQUIRED UNDER THIS TITLE BY FIRST–CLASS MAIL OR ELECTRONIC MAIL.

~~(d)~~ **(E)** After the public hearing, the Department may adopt the rule or regulation with or without modification.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 13

(Senate Bill 62)

AN ACT concerning

Community Legacy Program – Application Requirements – Approval by Authorized Designee

FOR the purpose of authorizing a political subdivision to approve an application to the Department of Housing and Community Development for a sustainable community plan or community legacy project by delivery of a letter, by a certain authorized designee, expressing support for the plan or project; and generally relating to the Department of Housing and Community Development and approval of sustainable community plans and community legacy projects.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 6–206
Annotated Code of Maryland
(2006 Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Housing and Community Development

6–206.

(a) The Department shall:

(1) review each application and may request more information from the sponsor;

(2) accept public input on each application;

(3) submit each application to appropriate State units and appropriate members of the Smart Growth Subcabinet;

(4) consider any recommendation a State unit or member of the Smart Growth Subcabinet makes;

(5) consider geographic balance when reviewing applications; and

(6) give priority in awarding financial assistance to applicants that are likely to repay the financial assistance to a community development financial institution or to the Community Legacy Financial Assistance Fund.

(b) (1) The Department may not approve an application unless the political subdivision in which the proposed project is located approves the application by **[**resolution**]:**

(I) RESOLUTION; OR

(II) LETTER, DELIVERED TO THE DEPARTMENT BY THE POLITICAL SUBDIVISION'S AUTHORIZED DESIGNEE, EXPRESSING SUPPORT FOR THE PLAN OR PROJECT.

(2) If an application affects a sustainable community entirely within a municipal corporation, the approval must come from the municipal corporation rather than the surrounding county.

(3) If an application affects a sustainable community within more than one political subdivision, each political subdivision must approve it by **[**resolution**]:**

(I) RESOLUTION; OR

(II) LETTER, DELIVERED TO THE DEPARTMENT BY THE POLITICAL SUBDIVISION'S AUTHORIZED DESIGNEE, EXPRESSING SUPPORT FOR THE PLAN OR PROJECT.

(c) The Secretary shall award financial assistance to a sponsor or a sponsor's designee:

(1) in the amount and of the type that the Secretary determines; and

(2) under the terms of a community legacy agreement.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 14

(Senate Bill 63)

AN ACT concerning

Maryland Higher Education Commission – Institutional Renewal Fees and Religious Educational Institutions

FOR the purpose of clarifying that the Maryland Higher Education Commission is authorized to impose certain renewal fees on certain institutions of postsecondary education; requiring the revenues from certain fees to be distributed to a certain fund; altering certain conditions under which the Commission may authorize certain religious educational institutions to operate without a certificate of approval; requiring certain religious educational institutions to obtain a certificate of approval under certain circumstances; clarifying certain procedures and establishing certain additional requirements related to certain religious educational institutions; and generally relating to renewal fees for all institutions of postsecondary education and exempt and nonexempt religious educational institutions.

BY repealing and reenacting, with amendments,
Article – Education
Section 11–105(o) and 11–202.1
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

11–105.

(o) (1) The Commission may require an application **OR RENEWAL** fee from an institution of postsecondary education seeking:

(i) Certification to operate in the State; **[**or**]**

(II) AN EXEMPTION FROM CERTIFICATION TO OPERATE IN THE STATE UNDER § 11–202.1(B) OF THIS TITLE; OR

[(ii)**] (III)** Except for actions relating to programs offered at a regional higher education center, approval of any academic program action taken under Subtitle 2 of this title.

(2) (i) The revenues from application **AND RENEWAL** fees shall be distributed to a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) Subject to subparagraph (iii) of this paragraph, the special fund may be used only to carry out the provisions of Subtitle 2 of this title.

(iii) At the end of each fiscal year, any amount in excess of $100,000 shall revert to the General Fund.

(iv) Any investment earnings of the fund shall be credited to the General Fund.

(3) Subject to the provisions of § 11–203 of this title, the Commission may require bonds or other financial guaranties from institutions of postsecondary education seeking certification or recertification to operate in the State.

11–202.1.

(a) A private nonprofit institution of higher education operating under a charter granted by the General Assembly may operate without a certificate of approval from the Commission.

(b) **(1)** Subject to the requirements imposed by **[**subsection (c) of**]** this section, **AND EXCEPT AS PROHIBITED IN PARAGRAPH (2) OF THIS SUBSECTION, [**the following institutions of postsecondary education**] A RELIGIOUS EDUCATIONAL INSTITUTION** may operate without a certificate of approval from the Commission **IF THE INSTITUTION**:

[(1) A religious educational institution that certifies, in accordance with procedures established by the Commission, that the institution:**]**

(i) Is [founded and operated by a church or other religious institution or organization of churches or religious institutions as an integral part of the religious ministry of that institution or organization] **ESTABLISHED FOR RELIGIOUS EDUCATIONAL PURPOSES**;

(II) PROVIDES EDUCATIONAL PROGRAMS ONLY FOR RELIGIOUS VOCATIONS OR PURPOSES;

[(ii)] **(III)** Offers **ONLY** sectarian instruction [only] designed for and aimed at [persons] **INDIVIDUALS** who hold or seek to learn **THE** particular religious faiths or beliefs [of religious institutions or religious organizations, and provides only educational programs for religious vocations; and] **TAUGHT BY THE INSTITUTION;**

(IV) DOES NOT OFFER INSTRUCTION IN NONSECTARIAN OR GENERAL EDUCATION; AND

[(iii)] **(V)** States on the certificate or diploma the religious nature of the award[; and

(2) A church or other religious institution offering a postsecondary instructional program leading to a certificate or diploma only if designed for and aimed at persons who hold or seek to learn the particular religious faith or beliefs of that church or religious institution, and providing only educational programs for religious purposes].

(2) A RELIGIOUS EDUCATIONAL INSTITUTION THAT IS ACCREDITED BY AN ACCREDITING BODY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION MAY NOT OPERATE WITHOUT A CERTIFICATE OF APPROVAL FROM THE COMMISSION.

(c) [(1)] Each **RELIGIOUS EDUCATIONAL** institution authorized to operate without a certificate of approval under subsection (b) of this section:

[(i)] **(1)** Shall submit to the Commission, every 2 years, **A RENEWAL APPLICATION THAT INCLUDES** a financial statement reviewed by an independent accountant retained by the institution **AND A COPY OF THE CURRENT CATALOG OF COURSES**; and

[(ii)] **(2)** May not commence or continue to operate, do business, or function unless the Commission determines on the basis of the financial statement submitted by the institution that the institution possesses adequate financial resources to support the institution's educational program.

[(2)**] (D)** The Commission shall adopt regulations establishing procedures and standards for the submission and evaluation of the **APPLICATION FOR EXEMPTION, RENEWAL APPLICATION, AND** reports and financial statements submitted by **RELIGIOUS EDUCATIONAL** institutions **[**under this subsection**]**.

[(d)**] (E)** **[**Any**] A RELIGIOUS EDUCATIONAL** institution **SEEKING TO OPERATE WITHOUT A CERTIFICATE OF APPROVAL** under subsection (b) of this section that is denied the right to operate has the right to judicial review as provided by the Administrative Procedure Act.

[(e)**] (F)** Nothing in this section precludes **[**an**] A RELIGIOUS EDUCATIONAL** institution **[**operating**] AUTHORIZED TO OPERATE** without a certificate of approval under subsection (b) of this section from seeking a certificate of approval from the Commission.

(G) A RELIGIOUS EDUCATIONAL INSTITUTION AUTHORIZED TO OPERATE WITHOUT A CERTIFICATE OF APPROVAL UNDER SUBSECTION (B) OF THIS SECTION SHALL DISCLOSE ON ALL TRANSCRIPTS, CATALOGS, ADVERTISEMENTS, AND PUBLICATIONS OF THE INSTITUTION THAT THE INSTITUTION DOES NOT HAVE A CERTIFICATE OF APPROVAL FROM THE COMMISSION.

[(f)**] (H)** With regard to **[**an**] A RELIGIOUS EDUCATIONAL** institution **[**operating**] AUTHORIZED TO OPERATE** without a certificate of approval under subsection (b) of this section, a person may not:

(1) Make a statement, whether verbal or written, that the institution is approved by, or has a certificate of approval from, the Commission, including a statement on any certificate, diploma, academic transcript, or other document issued by the institution or in any advertisement or publication, or on a website; or

(2) Enroll a student in the institution unless, before enrollment, the person gives written notice to and obtains a written acknowledgment from the student that:

(i) The institution's instructional program is only designed for and aimed at persons who hold or seek to learn the particular religious faith or beliefs of the church or religious institution, and provides only educational programs for religious vocations or purposes;

(ii) An institution of higher education is not required to accept for transfer credits earned at the institution;

(iii) An institution of higher education is not required to recognize an award earned at the institution; **[**and**]**

(iv) A potential employer may determine that an award earned at the institution does not meet minimum educational requirements for employment**;**

(V) WITH RESPECT TO A RELIGIOUS COUNSELOR PROGRAM, STATE LICENSING BOARDS ARE NOT REQUIRED TO RECOGNIZE THE PROGRAM AS A PREREQUISITE OF LICENSURE; AND

(VI) IF APPLICABLE, THE INSTITUTION:

1. IS NOT ACCREDITED; OR

2. IS ACCREDITED BY AN ACCREDITING BODY THAT IS NOT RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION.

[(g)**] (I)** The written acknowledgment obtained from a student under subsection **[**(f)**] (H)** of this section shall be:

(1) In a form approved by the Commission;

(2) Signed by both the student and a representative of the institution; and

(3) Permanently retained in the student's file by the institution.

[(h)**] (J)** A person who violates subsection **[**(f) or**]** (g)**, (H), OR (I)** of this section is liable for a penalty of up to $5,000 for each violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 15

(Senate Bill 64)

AN ACT concerning

Controlled Hazardous Substance Vehicles – Display of Certificates

FOR the purpose of repealing the requirement that certain haulers, while transporting a controlled hazardous substance, display a certain certificate on the outside of

the cab of the controlled hazardous substance vehicle; and generally relating to controlled hazardous substance vehicle certificates.

BY repealing and reenacting, with amendments,
Article – Environment
Section 7–252
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

7–252.

(a) Each controlled hazardous substance hauler:

(1) Shall maintain a bond or other security that the Department considers sufficient to indemnify this State for abatement of any pollution that may result from the improper transportation of a controlled hazardous substance;

(2) Shall pay an annual vehicle certificate fee set by the Department but not more than $50;

(3) When transporting any controlled hazardous substance, shall**[**:

(i) Carry**]** **CARRY** the manifest **AND THE VEHICLE CERTIFICATE** in the cab of the controlled hazardous substance vehicle; **[**and

(ii) Display prominently the vehicle certificate or affix the vehicle certificate to the outside of the left door of the cab of the controlled hazardous substance vehicle;**]**

(4) May not transport a controlled hazardous substance unless the controlled hazardous substance is labeled properly and in secure containers in accordance with the rules and regulations of the Department that apply to that particular controlled hazardous substance;

(5) On the request of any police officer, shall stop the controlled hazardous substance vehicle and display to the police officer all required documentation and allow inspection and sampling of the controlled hazardous substance to determine if there is a violation of:

(i) The provisions of the vehicle certificate; or

(ii) Any federal or state law;

(6) Except under the supervision of the Department during an emergency, may not remove the controlled hazardous substance from the controlled hazardous substance vehicle, or treat, store for any period of time, or mix any controlled hazardous substance except in a controlled hazardous substance facility; and

(7) Shall report periodically, on a form required by the Department, the following information about shipments of controlled hazardous substances:

(i) The source of the controlled hazardous substance;

(ii) The nature of the controlled hazardous substance; and

(iii) The disposal destination.

(b) Each controlled hazardous substance vehicle driver, when transporting any controlled hazardous substance, shall comply with subsection (a)(3), (4), (5), and (6) of this section and all applicable State rules and regulations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 16

(Senate Bill 65)

AN ACT concerning

Workers' Compensation – Claim Processing – Electronic Delivery of Decisions

FOR the purpose of providing that a copy of certain decisions by the Workers' Compensation Commission may be sent by electronic means to a party or the party's attorney of record under certain circumstances; and generally relating to the delivery of decisions by the Workers' Compensation Commission.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–308 and 9–714
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

9–308.

(a) Any member of the Commission may conduct a hearing or other investigation for the Commission.

(b) A decision or order of a member of the Commission shall be considered a decision or order of the Commission.

(C) A COPY OF EACH DECISION OR ORDER SHALL BE SENT TO EACH PARTY'S ATTORNEY OF RECORD AND TO EACH UNREPRESENTED PARTY:

(1) BY FIRST–CLASS MAIL; OR

(2) BY ELECTRONIC MEANS, IF THE PARTY'S ATTORNEY OF RECORD CONSENTS OR, IF THE PARTY IS UNREPRESENTED, THE PARTY CONSENTS.

9–714.

(a) When the Commission receives a claim, the Commission:

(1) may investigate the claim; and

(2) on application of any party to the claim, shall order a hearing.

(b) (1) The Commission shall make or deny an award within 30 days:

(i) after the mailing of the notice of the filing of a claim; or

(ii) if a hearing is held, after the hearing is concluded.

(2) The decision shall be recorded in the principal office of the Commission, and a copy of the decision shall be sent **[**by first–class mail**]** to each party's attorney of record or, if the party is unrepresented, to the party**:**

(I) BY FIRST–CLASS MAIL; OR

(II) BY ELECTRONIC MEANS, IF THE PARTY'S ATTORNEY OF RECORD CONSENTS OR, IF THE PARTY IS UNREPRESENTED, THE PARTY CONSENTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 17

(Senate Bill 67)

AN ACT concerning

Central Collection Unit – Monitoring and Recording of Telephone Calls – Training and Quality Control Purposes

FOR the purpose of authorizing the Central Collection Unit in the Department of Budget and Management to manage the monitoring and recording of certain telephone calls for certain purposes; requiring monitored or recorded telephone calls to contain a certain notice; prohibiting the Central Collection Unit from recording or monitoring calls to or from certain lines of employees of the Unit; prohibiting the recording of a certain incoming telephone call to be offered in evidence in certain proceedings, except under certain circumstances; prohibiting a recording of a telephone call to be retained for longer than a certain number of days, except under certain circumstances; and generally relating to the monitoring and recording of telephone calls by the Central Collection Unit.

BY adding to
Article – State Finance and Procurement
Section 3–304(d)
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

3–304.

(D) (1) NOTWITHSTANDING THE PROVISIONS OF § 9–602 OF THE CRIMINAL LAW ARTICLE, AND SUBJECT TO ~~PARAGRAPH (2)~~ PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, THE CENTRAL COLLECTION UNIT MAY MANAGE THE MONITORING AND RECORDING OF INCOMING TELEPHONE CALLS

~~TO EMPLOYEES OF THE CENTRAL COLLECTION UNIT TO TELEPHONES WITHIN THE OFFICES OF THE CENTRAL COLLECTION UNIT:~~

(I) TO THE AUTOMATED CALL DISTRIBUTION SYSTEM; AND

(II) FOR TRAINING AND QUALITY CONTROL PURPOSES.

(2) ANY MONITORED OR RECORDED TELEPHONE CALL SHALL CONTAIN A NOTICE TO THE TELEPHONE CALLER THAT "YOUR CALL MAY BE RECORDED OR MONITORED FOR TRAINING AND QUALITY CONTROL PURPOSES".

(3) THE CENTRAL COLLECTION UNIT MAY NOT RECORD OR MONITOR CALLS TO OR FROM A DIRECT INDIVIDUAL LINE OF AN EMPLOYEE OF THE CENTRAL COLLECTION UNIT.

(4) THE RECORDING OF AN INCOMING TELEPHONE CALL TO AN EMPLOYEE OF THE CENTRAL COLLECTION UNIT MAY NOT BE OFFERED AS EVIDENCE IN A CRIMINAL OR CIVIL PROCEEDING AGAINST ANY CALLER UNLESS:

(I) THE CALLER HAS MADE A PERSONAL OR IMMINENT THREAT AGAINST AN EMPLOYEE OR PROPERTY OF THE STATE; OR

(II) THE CALLER OR CALLER'S REPRESENTATIVE FIRST INTRODUCES THE CONTENTS OR EXISTENCE OF THE RECORDED TELEPHONE CALL IN THE CRIMINAL OR CIVIL PROCEEDING.

(5) A RECORDING OF A TELEPHONE CALL MAY NOT BE RETAINED BY THE CENTRAL COLLECTION UNIT FOR LONGER THAN 60 DAYS, UNLESS THE RECORDING IS BEING USED OR IS TO BE USED:

(I) FOR TRAINING OR QUALITY CONTROL PURPOSES; OR

(II) IN A CRIMINAL OR CIVIL PROCEEDING UNDER PARAGRAPH (4) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 18

(Senate Bill 73)

AN ACT concerning

Vehicle Laws – Piling, Poles, Mill Logs, and Similar Cargo – Length, Overhang, and Fastening Standards

FOR the purpose of altering the exemptions from length and overhang limits for vehicles carrying piling, poles, or mill logs; establishing length and overhang limits at which a hauling permit from the State Highway Administration would be required for vehicles carrying piling, poles, or mill logs; repealing the requirement that piling, poles, mill logs, and other similar cargo be transported while enclosed within the sides or ends of the body of the vehicle; altering the fastening standards for transporting piling, poles, mill logs, and other similar cargo; making this Act an emergency measure; and generally relating to the transportation of piling, poles, mill logs, and other similar cargo.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 24–101
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 24–104.1, 24–105, and 24–106.2
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 – Transportation

24–101.

(a) The provisions of this subtitle governing size, weight, and load do not apply to:

(1) Emergency vehicles;

(2) Farm equipment temporarily moved on a highway; or

(3) A vehicle driven under the terms of a special permit issued under this subtitle.

(b) A person may not drive on any publicly maintained highway any vehicle or combination of vehicles with a gross weight that exceeds:

(1) The maximum registered weight limit for which the vehicle or combination is registered under § 24–110 of this subtitle; or

(2) Any other weight limit established under the Maryland Vehicle Law.

(c) A person may not permit to be driven on any publicly maintained highway any vehicle or combination of vehicles with a gross weight that exceeds:

(1) The maximum registered weight limit for which the vehicle or combination is registered under § 24–110 of this subtitle; or

(2) Any other weight limit established under the Maryland Vehicle Law.

(d) A violation of the maximum weight provisions of this subtitle is not a moving violation for purposes of Title 16, Subtitle 4 of this article.

24–104.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Automobiles" means all assembled motor vehicles:

(i) Capable of being operated on a highway; and

(ii) Authorized under this article to be operated on a highway.

(3) "Maxi–cube vehicle" means a nonarticulating straight truck:

(i) In combination with a semitrailer which does not exceed 34 feet, and is designed to be loaded and unloaded through the semitrailer; or

(ii) In combination with a trailer that does not exceed 28 feet.

(4) "Saddle–mount and full–mount combinations" means a truck tractor or unloaded truck towing one or more other truck tractors or unloaded trucks in combination.

(5) "Stinger–steered automobile transporter" means a truck tractor and semitrailer combination:

(i) Designed for and engaged exclusively in the transportation of automobiles or boats; and

(ii) In which the fifth wheel is located on a drop frame behind and below the rear axle of the power unit.

(b) (1) For purposes of this section, the length of a vehicle includes its front and rear bumpers and any part of its load that extends beyond the vehicle, but is exclusive of nonload bearing safety and energy conservation devices, such as marker lamps, steps and handholds for entry and egress, front–mounted refrigeration units, and front–mounted air compressors.

(2) The measurement of a combination of vehicles engaged in the transportation of automobiles or boats shall not include the overhang of the transported vehicles or boats or any retractable device on the rear of the combination when in use to support a transported vehicle.

(c) (1) This section does not apply to any vehicle or combination of vehicles carrying:

(i) Piling, poles, or mill logs **THAT DO NOT EXCEED 75 FEET IN LENGTH**; or

(ii) Crew or racing shells.

(2) This section does not prohibit the use of a combination of vehicles to carry an indivisible load if the load is not over 70 feet long.

(d) Except as otherwise provided in this section:

(1) A bus, single unit truck, or Class M motor home may not be over 40 feet long; and

(2) A publicly owned rigid bus may not be over 41 feet long.

(e) (1) This subsection does not apply to a publicly owned rigid bus.

(2) A bus or a Class M motor home may be over 40 feet long but may not be over 45 feet long:

(i) When operated on an interstate highway or any part of the State highway system designated by the Secretary in conjunction with the United States Department of Transportation; or

(ii) When operated on a highway that is not specified in item (i) of this paragraph if the bus or motor home is using the highway to travel the shortest practical route between a highway specified in item (i) of this paragraph and:

1. The point of origin or destination of the bus or motor home on a particular day;

2. A bus terminal; or

3. For a distance not to exceed 1 mile, facilities for food, fuel, repairs, or rest.

(f) Except as otherwise provided in this section, a publicly owned articulated three–axle bus may not be over 60 feet long.

(g) Any other vehicle may not exceed a length of 35 feet.

(h) When a semitrailer and a trailer (double) are being operated in combination with a truck tractor, the combination of vehicles shall not be subject to an overall length limitation. This combination may only be operated on any part of the interstate system or other State system highways that are designated by the Secretary in conjunction with the U.S. Department of Transportation, or on a highway that is the shortest practical route between a designated highway and a truck terminal, or point of origin/destination for cargo, or for a distance not to exceed 1 mile, facilities for food, fuel, repairs, or rest. A semitrailer or trailer being operated in this combination may not exceed 28 feet in length for each unit.

(i) When a semitrailer (single) is being operated in combination with a truck tractor, the combination of vehicles shall not be subject to an overall length limit, however, the semitrailer may not exceed 48 feet in length.

(j) Except as otherwise provided in this section:

(1) In a combination of vehicles with a power unit that is a cargo–carrying vehicle, the overall length of the combination may not exceed 62 feet;

(2) Any other combination of vehicles may not exceed 55 feet; and

(3) (i) 1. A truck or truck tractor and semitrailer combination designed for and engaged exclusively in the transportation of automobiles or boats may not exceed 65 feet in length;

2. A stinger–steered automobile transporter may not exceed 75 feet in length;

3. A. A maxi–cube vehicle described in subsection (a)(4)(i) of this section may not exceed 65 feet in length; and

B. A maxi–cube vehicle described in subsection (a)(4)(ii) of this section may not exceed 60 feet in length; and

4. Saddle–mount and full–mount combinations may not exceed 97 feet in length;

(ii) No other length requirements may be applied to the combinations of vehicles described in item (i) of this item; and

(iii) The combinations of vehicles described in item (i) of this item may only be operated on any part of the interstate system or other State system highways that are designated by the Secretary in conjunction with the U.S. Department of Transportation, or on a highway that is the shortest practical route between a designated highway and:

1. A truck terminal;

2. A point of origin/destination for cargo; or

3. For a distance not to exceed 1 mile, facilities for food, fuel, repairs, or rest.

(j–1) Notwithstanding the provisions of subsection (j) of this section, when a semitrailer is being operated in combination with a power unit that is equipped with a dromedary box being used to transport explosives and munitions classified under 49 C.F.R. Part 173.50 that are intended for use by the United States Department of Defense, the combination of vehicles is not subject to an overall length limit, but the semitrailer may not exceed 48 feet in length.

(k) (1) Notwithstanding the provisions of subsection (h) of this section, nothing shall prevent the operation of a combination of vehicles in which the semitrailer (single) does not exceed 48 1/2 feet in length or a combination of vehicles in which the semitrailer or trailer (double) does not exceed 28 1/2 feet in length for each unit; provided, the combination has been lawfully operated on the highways of this State prior to December 1, 1982.

(2) Notwithstanding the provisions of subsection (j)(1) of this section, nothing shall prevent a power unit, which was equipped with a dromedary box, deck, or plate and was legally operated in Maryland prior to December 1, 1982, in combination with a semitrailer or trailer from exceeding the overall length limit of 55 feet.

(l) (1) In this subsection, "vehicle" means:

(i) A semitrailer as defined in § 11–158 of this article; or

(ii) A trailer as defined in § 11–169 of this article.

(2) Notwithstanding the overall length of the combination, a truck tractor may not be operated on a highway in the State in combination with more than 2 vehicles.

(m) (1) Subject to paragraph (2) of this subsection, a combination of noncommercial vehicles consisting of a power unit and a travel trailer may not exceed 65 feet in length.

(2) The combination of vehicles exceeding 55 feet but authorized under this subsection may only be operated on:

(i) Any part of the interstate system or other State system highways that are designated by the Secretary in conjunction with the U.S. Department of Transportation; or

(ii) A highway that is the shortest practical route between a designated highway and:

1. A point of origin or destination on a particular day; or

2. For a distance not to exceed 1 mile, facilities for food, fuel, repairs, or rest.

24–105.

(a) This section does not apply to:

(1) Any vehicle carrying wooden prefabricated roof trusses in an inverted position, if the trusses do not extend more than 10 feet beyond the rear of the bed or body of the vehicle;

(2) A combination of vehicles carrying an indivisible load if the load is not over 70 feet long, and the load is being transported during daylight hours; **[**or**]**

(3) Any vehicle **[**or combination of vehicles**]** carrying:

(i) Piling, poles, or mill logs;

(ii) Nursery stock; or

(iii) Crew or racing shells**; OR**

(4) ANY COMBINATION OF VEHICLES CARRYING:

(I) PILING, POLES, OR MILL LOGS THAT DO NOT EXCEED 75 FEET IN LENGTH;

(II) NURSERY STOCK; OR

(III) CREW OR RACING SHELLS.

(b) Subject to the maximum length limits of § 24–104.1 of this subtitle, the load on any vehicle operated alone or the load on the front vehicle of a combination of vehicles:

(1) Except as provided in item (2) of this subsection, may not extend more than 3 feet beyond the foremost part of the vehicle; and

(2) May extend more than 3 feet beyond the foremost part of a vehicle equipped with front–end loading attachments and containers used in collecting garbage, rubbish, refuse, or recyclable materials when the vehicle is actively engaged in collecting garbage, rubbish, refuse, or recyclable materials.

(c) (1) Except as provided in paragraph (2) of this subsection, and subject to the maximum length limits of § 24–104.1 of this subtitle, the load on any vehicle operated alone or the load on the rear vehicle of a combination of vehicles may not extend more than 6 feet beyond the rear of the bed or body of the vehicle.

(2) (i) The load on the rear of an automobile or boat transporter, including any retractable device on the rear of a combination of vehicles engaged in the transportation of automobiles in use to support a transported vehicle, may not extend more than 4 feet beyond the rear of the permanent bed or body of the automobile; and

(ii) A white, red, or orange fluorescent warning flag made of a reflective material at least 18 inches square shall be displayed on the rearmost portion of the overhanging transported vehicle.

24–106.2.

(a) **[**A vehicle used to carry logs, poles, unfinished or unfabricated lumber, pipe, steel, or other materials of a similar kind, size, shape, or characteristic may not be driven on any highway unless its load is enclosed entirely within the sides and ends of the body of the vehicle.

(b)**]** A vehicle **OR COMBINATION OF VEHICLES** used to carry **[**logs,**] PILING,** poles, **MILL LOGS,** unfinished or unfabricated lumber, pipe, steel, or other materials of a similar kind, size, shape, or characteristic may not be driven on any highway unless its load is fastened securely to both the front and rear of the vehicle at both the front and rear of the load, as provided in this section.

[(c)**] (B)** The fastening of a load to a vehicle shall be:

(1) By two separate common coil B.B. chains, the links of which may not be less than:

(i) 3/8 of an inch in diameter for loads of 3 tons or less; or

(ii) 1/2 of an inch in diameter for loads over 3 tons;

(2) If they have at least as much tensile strength as the chains, by:

(i) Wire rope not less than 5/16 of an inch in diameter;

(ii) Steel strapping; **OR**

(iii) Logistic webbing of synthetic fibers; or

[(iv)**] (3)** **[**Any fastening device specified in regulations**] AS SPECIFIED IN PART 393 OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS AND** adopted jointly by the Administration and the Department of State Police**[**; or

(3) As specified in Part 393.102(b) (securement systems) of the federal Motor Carrier Safety Regulations.

(d) The fastening devices specified in this section shall be fastened with an adequate load binder of standard make or other appropriate fastening device.

(e) The fastening devices specified in this section may not be repaired or replaced by any material other than of the size, strength, and material specified in this section**]**.

SECTION 2. AND BE IT FURTHER ENACTED, ~~That this Act shall take effect October 1, 2013~~ 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 19

(Senate Bill 75)

AN ACT concerning

Motor Vehicle Administration – Investigative Division – Issuance of Citations

FOR the purpose of authorizing an employee of the Investigative Division of the Motor Vehicle Administration to issue citations to the same extent as a police officer

under certain circumstances; altering the violations for which an employee of the Investigative Division may issue a citation under certain circumstances; making certain stylistic changes; and generally relating to the authority of employees of the Investigative Division of the Motor Vehicle Administration to issue citations.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–147
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 12–104.1
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

11–147.

"Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of any of the provisions of the Maryland Vehicle Law or of local or other traffic laws or regulations.

12–104.1.

(a) The Administrator may designate employees of the Investigative Division of the Administration to exercise the powers specified in subsection (b) of this section.

(b) (1) An employee appointed under this section may issue citations to the **SAME** extent **AS A POLICE OFFICER IF** authorized by the Administration**,** for violations of:

(i) **[**Those**]** **THE** provisions of Title 13 of this article **[**relating to:

1. The vehicle excise tax;

2. Vehicle titling and registration;

3. Special registration plates for individuals with disabilities; and

4. Parking permits for individuals with disabilities**]**;

(ii) **[**Those**] THE** provisions of Title 17 of this article relating to required security;

(iii) **[**Those**] THE** provisions of Title 14 of this article relating to falsified, altered, or forged documents and plates;

(iv) **[**Those**] THE** provisions of Title 16 of this article relating to unlawful application for a license**, [**and**]** vehicle operation during periods of cancellation, revocation, and suspension of a driver's license**, AND DUPLICATION OR REPRODUCTION OF AN IDENTIFICATION CARD OR DRIVER'S LICENSE**;

(v) **[**Those**] THE** provisions of Title 21 of this article relating to special residential parking permits issued by the Administration;

(vi) **[**Those provisions of §§ 15–113 and 15–113.1 of this article relating to maintenance of and access to required business records;

(vii) Those**] THE** provisions of Title 15 of this article **[**relating to unlicensed business activity; and**];**

(VII) THE PROVISIONS OF § 22–415 OF THIS ARTICLE RELATING TO ODOMETERS; AND

(viii) **[**Those**] THE** provisions of this title relating to the issuance of an identification card.

(2) The issuance of citations under this section shall comply with the requirements of § 26–201 of this article.

(c) The Administration shall adopt regulations establishing:

(1) Qualifications for employees appointed under this section including prerequisites of character, training, experience, and education; and

(2) Standards for the performance of the duties assigned to employees appointed under 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 20

(Senate Bill 81)

AN ACT concerning

Education and Workforce Training Coordinating Council for Correctional Institutions – Membership

FOR the purpose of altering the membership of the Education and Workforce Training Coordinating Council for Correctional Institutions to allow designees of certain members to serve in the members' stead; and generally relating to the membership of the Education and Workforce Training Coordinating Council for Correctional Institutions.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 11–901
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 – Labor and Employment

11–901.

(a) There is an Education and Workforce Training Coordinating Council for Correctional Institutions under the jurisdiction of the Department of Public Safety and Correctional Services and the Department.

(b) (1) The Council consists of 14 members.

(2) Four of the members of the Council shall be residents of this State appointed by the Governor for a term of 4 years who each shall serve until a successor is appointed and qualifies as follows:

(i) two representing the business community;

(ii) a former offender; and

(iii) one member of the general public.

(3) The following officials shall serve ex officio:

(i) the Secretary of Public Safety and Correctional Services;

(ii) the Secretary of Labor, Licensing, and Regulation;

(iii) the State Superintendent of Schools**, OR THE STATE SUPERINTENDENT'S DESIGNEE**;

(iv) the Secretary of Higher Education**, OR THE SECRETARY'S DESIGNEE**;

(v) the Secretary of Business and Economic Development**, OR THE SECRETARY'S DESIGNEE**;

(vi) the president of a community college in the State**, OR THE PRESIDENT'S DESIGNEE**;

(vii) the Chair of the Governor's Workforce Investment Board**, OR THE CHAIR'S DESIGNEE**;

(viii) the Director of Education and Workforce Skills Training for Correctional Institutions**, OR THE DIRECTOR'S DESIGNEE**;

(ix) an official from a local correctional facility**, OR THE OFFICIAL'S DESIGNEE**; and

(x) the county superintendent of schools from a county where a correctional institution of the Division of Correction is located, who shall be selected by the State Superintendent**, OR THE COUNTY SUPERINTENDENT'S DESIGNEE**.

(c) Each member of the Council:

(1) serves without compensation; but

(2) is entitled to reimbursement for expenses in accordance with the Standard State Travel Regulations.

(d) (1) The Secretary of Public Safety and Correctional Services and the Secretary shall serve as cochairs of the Council.

(2) The Council:

(i) shall meet at least four times per year;

(ii) shall designate the time and place of its meetings; and

(iii) may adopt rules for the conduct of its meetings.

(3) The Council shall be within the Department for administrative and budgetary purposes.

(4) The Department shall provide technical and clerical assistance and support to the Council.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 21

(Senate Bill 85)

AN ACT concerning

Maryland Port Commission – Management Personnel Appointments – Operating and Managing Port Facilities

FOR the purpose of authorizing the Maryland Port Commission to determine the qualifications for appointment and the compensation and benefits for up to a certain number of management personnel positions required to operate and manage State–owned port facilities; establishing that those employees are State employees; recodifying certain provisions of law relating to management personnel employees performing services for certain private operating companies; making conforming and clarifying changes; and generally relating to management personnel and the Maryland Port Commission.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 6–201.2 and 6–204(q)
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 – Transportation

6–201.2.

(A) (1) THE COMMISSION MAY APPOINT UP TO A TOTAL OF 12 MANAGEMENT PERSONNEL EMPLOYEES TO OPERATE AND MANAGE ALL

STATE–OWNED PORT FACILITIES OR TO PERFORM SERVICES FOR PRIVATE OPERATING COMPANIES CREATED UNDER § 6–204(Q) OF THIS SUBTITLE.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSION MAY DETERMINE THE QUALIFICATIONS AND APPOINTMENT, AS WELL AS COMPENSATION AND LEAVE, FOR EMPLOYEES APPOINTED UNDER THIS SUBSECTION.

(3) AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE CHANGE, THE COMMISSION SHALL SUBMIT TO THE SECRETARY OF BUDGET AND MANAGEMENT EACH CHANGE TO THE SALARIES OF THOSE EMPLOYEES THAT INVOLVES INCREASES IN SALARY RANGES OTHER THAN THOSE ASSOCIATED WITH GENERAL SALARY INCREASES APPROVED BY THE GENERAL ASSEMBLY.

(4) THE SECRETARY OF BUDGET AND MANAGEMENT SHALL:

(I) REVIEW THE PROPOSED CHANGES; AND

(II) WITHIN 10 DAYS OF RECEIPT OF THE PROPOSED CHANGES, ADVISE THE COMMISSION WHETHER THE CHANGES WOULD HAVE AN ADVERSE EFFECT ON SPECIAL FUND EXPENDITURES.

(5) FAILURE OF THE SECRETARY OF BUDGET AND MANAGEMENT TO RESPOND IN A TIMELY MANNER IS DEEMED TO BE A STATEMENT THAT THE CHANGE WILL HAVE NO ADVERSE EFFECT.

(6) EMPLOYEES APPOINTED UNDER THIS SUBSECTION ARE STATE EMPLOYEES AND SHALL BE ENTITLED TO PARTICIPATE IN THE RETIREMENT AND PENSION SYSTEMS FOR EMPLOYEES OF THE STATE OF MARYLAND AUTHORIZED UNDER DIVISION II OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(7) THE BUDGET SUBMITTED BY THE GOVERNOR TO THE GENERAL ASSEMBLY SHALL INCLUDE PERSONNEL DETAIL FOR THE MANAGEMENT PERSONNEL POSITIONS UNDER THIS SUBSECTION IN THE FORM AND MANNER PROVIDED FOR AN AGENCY IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(8) SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY ON ACTIONS TAKEN BY THE COMMISSION UNDER THIS

SUBSECTION DURING THE PREVIOUS FISCAL YEAR WITH REGARD TO INDIVIDUALS SUBJECT TO THIS SUBSECTION.

[(a)**] (B)** (1) **(I)** Subject to approval of the Administration's budget by the General Assembly as provided in § 3–216 of this article and subject to State fiscal procedures, including those governing budgeting, accounting, and auditing, the Commission may adopt regulations establishing procedures for the approval and control of Administration expenditures.

[(2)**] (II)** The Commission shall present regulations proposed under this subsection to the Board of Public Works for approval.

[(b)**] (2)** The Commission may adopt any other regulations necessary to carry out the provisions of this title.

(c) (1) Subject to § 2–1246 of the State Government Article, the Commission shall report by January 15 of each year to the General Assembly on the activities of the Port Commission during the previous year.

(2) The report shall include a review of the port's competitive position during the previous year and any recommendations of the Commission for future changes in legislation, capital funding, or operational flexibility for consideration by the General Assembly.

(3) The report shall also include any substantive changes in its regulations for procurement and personnel.

6–204.

(q) (1) The Administration, with the approval of the Commission, may create private operating companies for the purpose of operating public port facilities.

[(2) (i) The Commission may appoint up to a total of 12 management personnel employees to perform services for all private operating companies created under this subsection.

(ii) Notwithstanding any other provision of law, the Commission may determine the qualifications and appointment, as well as compensation and leave, for employees appointed under this subsection.

(iii) At least 10 days before the effective date of the change, the Commission shall submit to the Secretary of Budget and Management each change to the salaries of these employees that involves increases in salary ranges other than those associated with general salary increases approved by the General Assembly.

(iv) The Secretary of Budget and Management shall:

1. Review the proposed changes; and

2. Within 10 days of receipt of the proposed changes, advise the Commission whether the changes would have an adverse effect on special fund expenditures.

(v) Failure of the Secretary of Budget and Management to respond in a timely manner is deemed to be a statement that the change will have no adverse effect.

(vi) Employees appointed under this subsection are State employees and shall be entitled to participate in the retirement and pension systems for employees of the State of Maryland authorized under Division II of the State Personnel and Pensions Article.

(vii) On or before December 1 of each year, the Commission shall report to the Governor and the Legislative Policy Committee of the General Assembly on actions taken by the Commission under this subsection during the previous fiscal year with regard to individuals subject to this subsection.

(3) The budget submitted by the Governor to the General Assembly shall include personnel detail for the private operating companies in the form and manner provided for an agency in the State Personnel Management System.**]**

[(4)**] (2)** Other than employees appointed by the Commission under **[**paragraph (2) of this subsection,**] § 6–201.2(A) OF THIS SUBTITLE,** employees of a private operating company created under this subsection are not State employees.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 22

(Senate Bill 86)

AN ACT concerning

Voluntary Placement for Former Children in Need of Assistance

FOR the purpose of altering the jurisdiction of the juvenile court to include jurisdiction over a certain former child in need of assistance (CINA); establishing the venue for filing a certain voluntary placement petition; requiring the juvenile court to

take certain actions in making a disposition on a voluntary placement petition for a former CINA; requiring the Social Services Administration of the Department of Human Resources to establish a program of out–of–home placement for certain former CINAs; requiring the Administration to adopt certain regulations; prohibiting a local department of social services from seeking legal custody of a former CINA under a voluntary placement agreement; authorizing a former CINA to remain in an out–of–home placement for more than a certain time period under certain circumstances; altering certain definitions; defining a certain term; making certain conforming changes; and generally relating to voluntary placement for certain former CINAs.

BY renumbering
Article – Family Law
Section 1–101(c) though (k), respectively
to be Section 1–101(d) through (l), respectively
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–801(bb), 3–804, 3–805(a), 3–811(a)(2), and 3–819.1
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 1–101(b)
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to
Article – Family Law
Section 1–101(c)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–501(r) and 5–525(b)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1–101(c) through (k), respectively, of Article – Family Law of the Annotated Code of Maryland be renumbered to be Section(s) 1–101(d) through (l), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

3–801.

(bb) "Voluntary placement" means a placement in accordance with § 5–525(b)(1)(i) or (iii) **OR (3)** of the Family Law Article.

3–804.

(a) **(1)** **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** court has jurisdiction under this subtitle only if the alleged CINA or child in a voluntary placement is under the age of 18 years when the petition is filed.

(2) THE COURT HAS JURISDICTION UNDER THIS SUBTITLE OVER A FORMER CINA:

(I) WHOSE COMMITMENT TO THE LOCAL DEPARTMENT WAS ~~TERMINATED~~ RESCINDED AFTER THE INDIVIDUAL REACHED THE AGE OF 18 YEARS BUT BEFORE THE INDIVIDUAL REACHED THE AGE OF 20 YEARS AND 6 MONTHS; AND

(II) WHO DID NOT EXIT FOSTER CARE DUE TO REUNIFICATION, ADOPTION, GUARDIANSHIP, MARRIAGE, OR MILITARY DUTY.

(b) If the court obtains jurisdiction over a child, that jurisdiction continues in that case until the child reaches the age of 21 years, unless the court terminates the case.

(c) After the court terminates jurisdiction, a custody order issued by the court in a CINA case:

(1) Remains in effect; and

(2) May be revised or superseded only by another court of competent jurisdiction.

3–805.

(a) (1) A petition alleging that a child is a CINA shall be filed in the county where:

(i) The child is residing when the petition is filed; or

(ii) The act on which the petition is based allegedly occurred.

(2) A voluntary placement petition shall be filed in the county where **[**the**]:**

(I) THE parent or legal guardian resides**;** ~~**OR**~~

(II) THE FORMER CINA'S COMMITMENT TO THE LOCAL DEPARTMENT WAS ~~**TERMINATED**~~ **RESCINDED; OR**

(III) THE FORMER CINA RECEIVES VOLUNTARY PLACEMENT SERVICES.

3–811.

(a) (2) A voluntary placement petition under this subtitle shall allege that continuation of a voluntary placement is in the best interests of the child **OR FORMER CINA** and shall set forth in clear and simple language the facts supporting that allegation.

3–819.1.

(a) Within 30 days after a voluntary placement petition is filed, the court shall hold a voluntary placement hearing and shall make findings as to:

(1) Whether continuation of the placement is in the child's best interests; and

(2) Whether reasonable efforts have been made to reunify the child with the family or place the child in a timely manner in accordance with the child's permanency plan.

(b) **[**In**] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN** making a disposition on a voluntary placement petition under this section, the court shall:

(1) Order the child's voluntary placement to be terminated and the child returned to the child's home and provided with available services and support needed for the child to remain in the home;

(2) Order the child's voluntary placement to continue if the local department and the child's parent or guardian continue to agree to the voluntary placement;

(3) Subject to the provisions of § 3–819(h), (i), and (j) of this subtitle, order an amendment to the voluntary placement agreement to address the needs of the child; or

(4) If necessary to ensure the care, protection, safety, and mental and physical development of the child, order the local department to file a CINA petition.

(C) IN MAKING A DISPOSITION ON A VOLUNTARY PLACEMENT PETITION FOR A FORMER CINA, THE COURT SHALL:

(1) ORDER THE FORMER CINA'S VOLUNTARY PLACEMENT TO CONTINUE AND MAKE ANY NECESSARY ORDERS TO ADDRESS THE NEEDS OF THE FORMER CINA, IF THE LOCAL DEPARTMENT AND THE FORMER CINA CONTINUE TO AGREE TO THE VOLUNTARY PLACEMENT; OR

(2) (I) ORDER THE FORMER CINA'S VOLUNTARY PLACEMENT TO BE TERMINATED; AND

(II) TERMINATE THE LOCAL DEPARTMENT'S PLACEMENT AND CARE RESPONSIBILITIES FOR THE FORMER CINA.

Article – Family Law

1–101.

(b) "Child in need of assistance" means an individual adjudicated as a child in need of assistance under Title 3, Subtitle 8 of the Courts Article.

(C) "CINA" MEANS A CHILD IN NEED OF ASSISTANCE.

5–501.

(r) "Voluntary placement agreement" means a binding, written agreement **THAT:**

(1) IS voluntarily entered into between a local department and**:**

(I) the parent or legal guardian of a minor child **[**that**]; OR**

(II) A FORMER CINA WHOSE COMMITMENT TO THE LOCAL DEPARTMENT WAS ~~TERMINATED~~ RESCINDED AFTER THE INDIVIDUAL REACHED THE AGE OF 18 YEARS BUT BEFORE THE INDIVIDUAL REACHED THE AGE OF 20 YEARS AND 6 MONTHS; AND

(2) specifies, at a minimum**[**,**]:**

(I) the legal status of the child **OR FORMER CINA;** and

(II) the rights and obligations of the parent or legal guardian, the child **OR FORMER CINA**, and the local department while the child **OR FORMER CINA** is in placement.

5–525.

(b) (1) The Administration shall establish a program of out–of–home placement for minor children:

(i) who are placed in the custody of a local department, for a period of not more than 180 days, by a parent or legal guardian under a voluntary placement agreement;

(ii) who are abused, abandoned, neglected, or dependent, if a juvenile court:

1. has determined that continued residence in the child's home is contrary to the child's welfare; and

2. has committed the child to the custody or guardianship of a local department; or

(iii) who, with the approval of the Administration, are placed in an out–of–home placement by a local department under a voluntary placement agreement subject to paragraph (2) of this subsection.

(2) (i) A local department may not seek legal custody of a child under a voluntary placement agreement if the child has a developmental disability or a mental illness and the purpose of the voluntary placement agreement is to obtain treatment or care related to the child's disability that the parent is unable to provide.

(ii) A child described in subparagraph (i) of this paragraph may remain in an out–of–home placement under a voluntary placement agreement for more than 180 days if the child's disability necessitates care or treatment in the out–of–home placement and a juvenile court makes a finding that continuation of the placement is in the best interests of the child.

(iii) Each local department shall designate, from existing staff, a staff person to administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses.

(iv) Each local department shall report annually to the Administration on the number of requests for voluntary placement agreements for

children with developmental disabilities or mental illnesses that have been received, the outcome of each request, and the reason for each denial.

(v) On receipt of a request for a voluntary placement agreement for a child with a developmental disability or a mental illness, a local department shall discuss the child's case at the next meeting of the local care team for the purpose of determining whether any alternative or interim services for the child and family may be provided by any agency.

(3) (I) THE ADMINISTRATION SHALL ESTABLISH A PROGRAM OF OUT–OF–HOME PLACEMENT FOR FORMER CINAS:

1. WHOSE COMMITMENT TO A LOCAL DEPARTMENT WAS ~~TERMINATED~~ RESCINDED AFTER THE INDIVIDUALS REACHED THE AGE OF 18 YEARS BUT BEFORE THE INDIVIDUALS REACHED THE AGE OF 20 YEARS AND 6 MONTHS; AND

2. WHO DID NOT EXIT FOSTER CARE DUE TO REUNIFICATION, ADOPTION, GUARDIANSHIP, MARRIAGE, OR MILITARY DUTY.

(II) THE ADMINISTRATION SHALL ADOPT REGULATIONS THAT INCLUDE ELIGIBILITY REQUIREMENTS IN ACCORDANCE WITH FEDERAL LAW AND REGULATIONS FOR PROVIDING ASSISTANCE TO INDIVIDUALS AT LEAST 18 YEARS OLD.

(III) A LOCAL DEPARTMENT MAY NOT SEEK LEGAL CUSTODY OF A FORMER CINA UNDER A VOLUNTARY PLACEMENT AGREEMENT.

(IV) A FORMER CINA DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY REMAIN IN AN OUT–OF–HOME PLACEMENT UNDER A VOLUNTARY PLACEMENT AGREEMENT FOR MORE THAN 180 DAYS IF THE FORMER CINA CONTINUES TO COMPLY WITH THE VOLUNTARY PLACEMENT AGREEMENT AND A JUVENILE COURT MAKES A FINDING THAT THE CONTINUATION OF THE PLACEMENT IS IN THE BEST INTERESTS OF THE FORMER CINA.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 23

(Senate Bill 140)

AN ACT concerning

State Finance and Procurement – Retention of Percentage of Contract – Security

FOR the purpose of altering a certain percentage that may be retained by a public body under a certain contract under certain circumstances; repealing an authorization for a public body to retain a certain percentage of a certain contract under certain circumstances; providing for the application of this Act; making stylistic changes; and generally relating to the retention of a percentage of contracts as security.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17–110(a) and (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 Finance and Procurement

17–110.

(a) Subsections (b)(1)**[**, (2),**]** and **[**(3)**]** **(2)**, (c), and (d) of this section do not apply to an entity that is required to comply with the provisions of § 13–225 of this article.

(b) (1) If a contractor has furnished 100% payment security and 100% performance security in accordance with this subtitle under a contract for construction awarded by a public body, the percentage specified in the contract for retainage may not exceed **[**10%**]** **5%** of the total amount **[**for the first 50%**]** of the contract.

(2) **[**Unless a public body demonstrates the need to retain more than 5% to protect the public interest, after 50% of the contract is completed, a public body may retain only 5% of the total amount.

(3)**]** In addition to retainage, a public body may withhold from payments otherwise due a contractor any amount that the public body reasonably believes necessary to protect the public body's interest.

[(4)**] (3)** Except as provided in paragraph **[**(5)**] (4)** of this subsection, within 120 days after satisfactory completion of a contract for construction, a public body shall release any retainage due to the contractor.

[(5)**] (4)** If there is a dispute or contract claim between the contractor and the public body concerning the satisfactory completion of a contract for construction, the public body shall release the retainage to the contractor within 120 days after the resolution of the dispute or contract claim.

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 construction contract awarded before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 24

(Senate Bill 153)

AN ACT concerning

Higher Education – Academic Credit for Military Education, Training, and Experience

FOR the purpose of requiring ~~public institutions of higher education to adopt policies for the purpose of awarding academic credit to a student for military education, training, and experience received while an active duty member of the uniformed services of the United States; requiring the Maryland Higher Education Commission to develop guidelines for public institutions of higher education to award academic credit to certain students for military education, training, and experience; requiring public institutions of higher education to utilize certain guidelines to adopt policies for the awarding of certain academic credit; requiring public institutions of higher education to award academic credit to certain students for military education, training, and experience beginning with a certain academic year; requiring the Commission to report to certain committees of the General Assembly on or before a certain date regarding the development of certain guidelines; requiring each public institution of higher education to report to certain committees of the General Assembly on or before a certain date regarding the adoption of policies for the awarding of academic credit to certain students for military education, training, and experience; defining certain terms;~~ the Maryland Higher Education Commission to develop

and adopt certain guidelines regarding the awarding of academic credit for military training, coursework, and education; requiring the governing bodies of each public institution of higher education to develop and implement certain policies in accordance with the guidelines adopted by the Commission; and generally relating to the award of academic credit for military education, training, and experience.

BY adding to
Article – Education
Section 15–113
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

~~**15–113.**~~

~~**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(2) "ACADEMIC YEAR" MEANS THE PERIOD COMMENCING WITH THE FALL SEMESTER AND CONTINUING THROUGH THE IMMEDIATELY FOLLOWING SUMMER SESSION AT A PUBLIC INSTITUTION OF HIGHER EDUCATION.**~~

~~**(3) "ACTIVE DUTY" HAS THE MEANING STATED IN § 7–1303 OF THIS ARTICLE.**~~

~~**(4) "UNIFORMED SERVICES" HAS THE MEANING STATED IN § 7–1303 OF THIS ARTICLE.**~~

~~**(5) "VETERAN" HAS THE MEANING STATED IN § 7–1303 OF THIS ARTICLE.**~~

~~**(B) THIS SECTION APPLIES TO THE FOLLOWING INDIVIDUALS:**~~

~~**(1) AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES OF THE UNITED STATES; OR**~~

~~**(2) A VETERAN OF THE UNIFORMED SERVICES OF THE UNITED STATES.**~~

~~(C) THE COMMISSION SHALL DEVELOP GUIDELINES FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION TO AWARD ACADEMIC CREDIT TO A STUDENT FOR MILITARY EDUCATION, TRAINING, AND EXPERIENCE RECEIVED WHILE AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES OF THE UNITED STATES AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(D) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL ADOPT POLICIES FOR THE PURPOSE OF AWARDING ACADEMIC CREDIT TO A STUDENT FOR MILITARY EDUCATION, TRAINING, AND EXPERIENCE RECEIVED WHILE AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES OF THE UNITED STATES.~~

~~(E) TO ADOPT THE POLICIES REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL UTILIZE:~~

~~(1) THE GUIDELINES DEVELOPED BY THE COMMISSION UNDER SUBSECTION (C) OF THIS SECTION; AND~~

~~(2) THE GUIDE TO THE EVALUATION OF EDUCATIONAL EXPERIENCES IN THE ARMED SERVICES, PUBLISHED BY THE AMERICAN COUNCIL ON EDUCATION.~~

~~(F) BEGINNING WITH THE 2014 ACADEMIC YEAR, EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL AWARD ACADEMIC CREDIT FOR MILITARY EDUCATION, TRAINING, AND EXPERIENCE RECEIVED WHILE A MEMBER OF THE UNIFORMED SERVICES OF THE UNITED STATES TO A STUDENT WHO IS:~~

~~(1) AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES OF THE UNITED STATES; OR~~

~~(2) AN HONORABLY DISCHARGED MEMBER OF THE UNIFORMED SERVICES OF THE UNITED STATES WHO BECOMES A STUDENT AT A PUBLIC INSTITUTION OF HIGHER EDUCATION WITHIN 3 YEARS AFTER THE DATE OF SEPARATION FROM MILITARY SERVICE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Maryland Higher Education Commission shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2–1246 of the State Government Article, on the guidelines it has developed for public institutions of higher education in the State to award academic credit to a student for military education, training, and experience received while an active duty member of the uniformed services of the United States.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1, 2013, each public institution of higher education in the State shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2–1246 of the State Government Article, on the policies it has adopted for the purpose of awarding academic credit to a student for military education, training, and experience received while an active duty member of the uniformed services of the United States.~~

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.

SECTION ~~4.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~ July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 25

(Senate Bill 158)

AN ACT concerning

Homestead Tax Credit – Eligibility Verification and Application ~~– Extension~~

FOR the purpose of altering the ~~date by which~~ dates by which certain applications for the homestead property tax credit ~~may not be authorized or granted unless a certain application is~~ for certain dwellings are required to be filed with the State Department of Assessments and Taxation; altering the taxable years in which the tax credit may not be granted for certain dwellings under certain circumstances; making this Act an emergency measure; and generally relating to the homestead property tax credit.

BY repealing and reenacting, without amendments,
Article – Tax – Property

Section 9–105(d)(1)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–105(d)(6)
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

9–105.

(d) (1) Subject to the provisions of paragraph (6) of this subsection, the Department shall authorize and the State, a county, or a municipal corporation shall grant a property tax credit under this section for a taxable year unless during the previous taxable year:

(i) the dwelling was transferred for consideration to new ownership;

(ii) the value of the dwelling was increased due to a change in the zoning classification of the dwelling initiated or requested by the homeowner or anyone having an interest in the property;

(iii) the use of the dwelling was changed substantially; or

(iv) the assessment of the dwelling was clearly erroneous due to an error in calculation or measurement of improvements on the real property.

(6) (i) To qualify for the credit under this section, a homeowner shall submit an application for the credit to the Department as provided in this paragraph.

(ii) The application shall:

1. be made on the form that the Department provides;

2. provide the information required by the form;

3. include a statement by the homeowner under oath that the facts stated in the application are true, correct, and complete; and

4. **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH,** be filed on or before ~~July 1 of~~ **THE MAY 1 PRECEDING** the first taxable year for which the property tax credit under this section is to be allowed.

(iii) For a dwelling that was last transferred for consideration to new ownership on or before December 31, 2007, **AN APPLICATION SHALL BE FILED WITH THE DEPARTMENT ON OR BEFORE DECEMBER 30, 2013, OR** the Department may not authorize and the State, county, and municipal corporation may not grant the property tax credit under this section ~~after~~ **[**December 31, 2012**]** ~~**JUNE 1, 2013**, unless an application is filed with the Department as required under this paragraph~~**:**

1. FOR THE TAXABLE YEAR BEGINNING JULY 1, 2014; AND

2. FOR A TAXABLE YEAR BEGINNING AFTER JUNE 30, 2015, UNLESS AN APPLICATION IS FILED AS REQUIRED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH.

(iv) If a dwelling previously received a credit under this section and failed to qualify for 1 taxable year because of a failure to file the application required under this paragraph, the Department:

1. shall grant the credit for the dwelling for the next following taxable year on the timely filing of the application by the same homeowner who previously received the credit; and

2. shall calculate the prior year's taxable assessment for the dwelling as if the credit had not been lost for the 1 intervening taxable year.

(v) The Department shall provide a homeowner the option to submit the application required under this paragraph electronically on the Department's Web site.

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 26

(House Bill 128)

AN ACT concerning

Homestead Tax Credit – Eligibility Verification and Application ~~– Extension~~

FOR the purpose of altering the ~~date by which~~ dates by which certain applications for the homestead property tax credit ~~may not be authorized or granted unless a certain application is~~ for certain dwellings are required to be filed with the State Department of Assessments and Taxation; altering the taxable years in which the tax credit may not be granted for certain dwellings under certain circumstances; making this Act an emergency measure; and generally relating to the homestead property tax credit.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 9–105(d)(1)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–105(d)(6)
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

9–105.

(d) (1) Subject to the provisions of paragraph (6) of this subsection, the Department shall authorize and the State, a county, or a municipal corporation shall grant a property tax credit under this section for a taxable year unless during the previous taxable year:

(i) the dwelling was transferred for consideration to new ownership;

(ii) the value of the dwelling was increased due to a change in the zoning classification of the dwelling initiated or requested by the homeowner or anyone having an interest in the property;

(iii) the use of the dwelling was changed substantially; or

(iv) the assessment of the dwelling was clearly erroneous due to an error in calculation or measurement of improvements on the real property.

(6) (i) To qualify for the credit under this section, a homeowner shall submit an application for the credit to the Department as provided in this paragraph.

(ii) The application shall:

1. be made on the form that the Department provides;

2. provide the information required by the form;

3. include a statement by the homeowner under oath that the facts stated in the application are true, correct, and complete; and

4. **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH,** be filed on or before ~~July 1 of~~ **THE MAY 1 PRECEDING** the first taxable year for which the property tax credit under this section is to be allowed.

(iii) For a dwelling that was last transferred for consideration to new ownership on or before December 31, 2007, **AN APPLICATION SHALL BE FILED WITH THE DEPARTMENT ON OR BEFORE DECEMBER 30, 2013, OR** the Department may not authorize and the State, county, and municipal corporation may not grant the property tax credit under this section ~~after~~ **[**December 31, 2012**]** ~~**JUNE 1, 2013**, unless an application is filed with the Department as required under this paragraph~~**:**

1. FOR THE TAXABLE YEAR BEGINNING JULY 1, 2014; AND

2. FOR A TAXABLE YEAR BEGINNING AFTER JUNE 30, 2015, UNLESS AN APPLICATION IS FILED AS REQUIRED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH.

(iv) If a dwelling previously received a credit under this section and failed to qualify for 1 taxable year because of a failure to file the application required under this paragraph, the Department:

1. shall grant the credit for the dwelling for the next following taxable year on the timely filing of the application by the same homeowner who previously received the credit; and

2. shall calculate the prior year's taxable assessment for the dwelling as if the credit had not been lost for the 1 intervening taxable year.

(v) The Department shall provide a homeowner the option to submit the application required under this paragraph electronically on the Department's Web site.

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 27

(Senate Bill 180)

AN ACT concerning

Department of Agriculture – State Chemist Fund

FOR the purpose of repealing certain special funds in the Department of Agriculture; requiring certain penalties and proceeds to be deposited in the State Chemist Fund instead of the General Fund of the State; establishing the State Chemist Fund in the Department as a special, nonlapsing fund; providing for the contents of the Fund; specifying the purpose of the Fund; providing that money in the Fund, up to a certain amount, may not revert to the General Fund of the State; requiring certain money to be transferred to the State Chemist Fund within a certain period of time; defining a certain term; and generally relating to the establishment of the State Chemist Fund in the Department of Agriculture.

BY repealing
Article – Agriculture
Section 5–103, 6–103, 6–204, and 6–303
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 5–107.1(c), 5–111(b), 6–310, and 6–401(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY adding to
Article – Agriculture
Section 6–501 to be under the new subtitle "Subtitle 5. State Chemist Fund"
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

[5–103.

The registration fee and all late fees under this subtitle shall be placed in a special fund to be used only to defray partially the cost of administering this subtitle. Notwithstanding any other provisions of this Code, any unexpended funds up to a maximum of $75,000 may not revert to the general funds of the State at the end of the fiscal year.**]**

5–107.1.

(c) All penalties collected under this section shall be paid into the **[**General Fund of the State**] STATE CHEMIST FUND UNDER § 6–501 OF THIS ARTICLE**.

5–111.

(b) After entry of the decree of condemnation, the pesticide shall be destroyed or sold, as the court directs. If the pesticide is sold, the proceeds, less legal costs, shall be paid to and deposited in the fund established in § **[**5–103**] 6–501** of this **[**subtitle**] ARTICLE**. The pesticide may not be sold contrary to the provision of this subtitle. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide may not be disposed of unlawfully, the court may order the pesticide delivered to its owner for relabeling or reprocessing.

[6–103.

Registration fees constitute a special fund to be used only to defray partially the cost of inspection, sampling, analysis, and other expenses necessary for administering this subtitle. Notwithstanding any other provisions of this Code, any unexpended funds up to a maximum of $100,000 may not revert to the General Fund of the State at the end of the fiscal year.**]**

[6–204.

Any registration or inspection fee, and penalty shall constitute a special fund to be used only to defray partially the cost of inspection, sampling, analysis, and other expenses necessary for administering this subtitle. Notwithstanding any other provisions of this Code, any unexpended funds up to a maximum of $100,000 may not revert to the General Fund of the State at the end of the fiscal year.**]**

[6–303.

Any fee collected under this subtitle constitutes a special fund to be used only to defray partially the cost of inspection, sampling, analysis, and other expenses incident to administering this subtitle. Notwithstanding any other provisions of this Code, any unexpended funds up to a maximum of $100,000 may not revert to the General Fund of the State at the end of the fiscal year.**]**

6–310.

If any fine is imposed by the circuit court of any county under the provisions of this subtitle, the fine, less the costs of collection, shall be paid immediately into the fund established by § **[**6–303**] 6–501** of this **[**subtitle**] TITLE**.

6–401.

(c) All penalties collected under this section shall be paid into the **[**General Fund of the State**] STATE CHEMIST FUND UNDER § 6–501 OF THIS TITLE**.

SUBTITLE 5. STATE CHEMIST FUND.

6–501.

(A) IN THIS SECTION, "FUND" MEANS THE STATE CHEMIST FUND.

(B) THE FUND IS CREATED AS A SPECIAL, NONLAPSING FUND IN THE DEPARTMENT FOR THE PURPOSE SPECIFIED IN THIS SECTION.

(C) THE FUND SHALL CONSIST OF ANY REGISTRATION, INSPECTION, OR LATE FEES OR ANY PENALTIES COLLECTED UNDER THIS TITLE OR UNDER TITLE 5, SUBTITLE 1 OF THIS ARTICLE.

(D) THE FUND MAY BE USED ONLY TO DEFRAY PARTIALLY THE COST OF INSPECTION, SAMPLING, ANALYSIS, AND OTHER EXPENSES NECESSARY FOR ADMINISTERING THIS TITLE OR TITLE 5, SUBTITLE 1 OF THIS ARTICLE.

(E) AT THE END OF A FISCAL YEAR, ANY UNEXPENDED OR UNENCUMBERED MONEY IN THE FUND, UP TO A MAXIMUM OF $375,000, MAY NOT REVERT TO THE GENERAL FUND OF THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That any unexpended or unencumbered money in the special funds established under §§ 5–103, 6–103, 6–204, and 6–303 of the Agriculture Article shall be transferred to the State Chemist Fund established under § 6–501 of the Agriculture Article on or before August 1, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 28

(Senate Bill 183)

AN ACT concerning

Income Tax – Business and Economic Development – Film Production Activity Tax Credit

FOR the purpose of extending certain termination provisions for a certain income tax credit allowed for certain entities that carry out certain film production activities in the State; altering the amount of certain tax credit certificates that the Secretary of Business and Economic Development may issue for certain fiscal years; making this Act an emergency measure; and generally relating to income tax credits for certain film production activities.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–730
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 516 of the Acts of the General Assembly of 2011
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

10–730.

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Business and Economic Development.

(3) (i) "Film production activity" means the production of a film or video project that is intended for nationwide commercial distribution.

(ii) "Film production activity" includes the production of:

1. a feature film;

2. a television project;

3. a commercial;

4. a corporate film;

5. an infomercial;

6. a music video;

7. a digital project;

8. an animation project; or

9. a multimedia project.

(iii) "Film production activity" does not include production of:

1. a student film;

2. a noncommercial personal video;

3. a sports broadcast;

4. a broadcast of a live event;

5. a talk show;

6. a video, computer, or social networking game; or

7. pornography.

(4) "Pornography" means any production for which records are required to be maintained under § 2257 of Title 18, U.S.C., with respect to any performer in such production engaging in sexually explicit conduct.

(5) "Qualified film production entity" means an entity that:

(i) is carrying out a film production activity; and

(ii) the Secretary determines to be eligible for the tax credit under this section in accordance with subsection (c) of this section.

(6) "Secretary" means the Secretary of Business and Economic Development.

(7) "Television series" means a group of program episodes intended for television broadcast or transmission with a common series title, with or without a predetermined number of episodes, and shall include a miniseries and a pilot episode produced for an intended television series.

(8) (i) "Total direct costs", with respect to a film production activity, means the total costs incurred in the State that are necessary to carry out the film production activity.

(ii) "Total direct costs" includes costs incurred for:

1. employee wages and benefits;

2. fees for services;

3. acquiring or leasing property; and

4. any other expense necessary to carry out a film production activity, including costs associated with:

A. set construction and operation;

B. wardrobe, makeup, and related services;

C. photography and sound synchronization, lighting, and related services and materials;

D. editing and related services, including film processing, transfers of film to tape or digital format, sound mixing, computer graphic services, special effects services, and animation services;

E. salary, wages, and other compensation including related benefits, for work performed in the State, paid to persons employed in the production, writers, directors, and producers;

F. rental of facilities in the State and equipment used in the State;

G. leasing of vehicles;

H. food and lodging;

I. music, if performed, composed, or recorded by a Maryland musician or published by a person or company domiciled in Maryland;

J. travel expenses incurred to bring persons employed, either directly or indirectly, in the production of the project to Maryland, but not including expenses of these persons departing from Maryland; and

K. legal and accounting services performed by attorneys or accountants licensed in Maryland.

(iii) "Total direct costs" does not include any salary, wages, or other compensation for personal services of an individual who receives more than $500,000 in salary, wages, or other compensation for personal services in connection with any film production activity.

(b) (1) A qualified film production entity may claim a credit against the State income tax for film production activities in the State in an amount equal to the amount stated in the final tax credit certificate approved by the Secretary for film production activities.

(2) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the qualified film production entity for that taxable year, the qualified film production entity may claim a refund in the amount of the excess.

(c) (1) Before beginning a film production activity, a film production entity shall submit to the Department an application to qualify as a film production entity.

(2) The application shall describe the anticipated film production activity, including:

(i) the projected total budget;

(ii) the estimated number of employees and total wages to be paid; and

(iii) the anticipated dates for carrying out the major elements of the film production activity.

(3) To qualify as a film production entity, the estimated total direct costs incurred in the State must exceed $500,000.

(4) The application shall include any other information required by the Secretary.

(5) The Secretary may require the information provided in an application to be verified by an independent auditor selected and paid for by the film production entity seeking certification.

(6) The Secretary shall:

(i) determine if the film production entity qualifies for the credit under this section; and

(ii) notify the Comptroller of the estimated amount of total direct costs and the taxable year the credit will be claimed.

(d) (1) After completion of the film production activity, a qualified film production entity shall apply to the Department for a tax credit certificate.

(2) The application shall be on a form required by the Secretary and shall include:

(i) proof of the total direct costs that qualify for the tax credit; and

(ii) the number of employees hired and wages paid.

(3) Subject to subsection (f) of this section, the Secretary shall determine the total direct costs that qualify for the tax credit and issue a tax credit certificate for:

(i) except as provided in item (ii) of this paragraph, 25% of the total direct costs that qualify for the tax credit; and

(ii) for a television series, 27% of the total direct costs that qualify for the tax credit.

(4) The Secretary shall notify the Comptroller of the amount of a tax credit certificate issued under this subsection.

(e) On or before January 1 of each year, the Department shall report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly, on:

(1) the number of film production entities submitting applications under subsection (c) of this section;

(2) the number and amount of tax credit certificates issued under subsection (d) of this section;

(3) the number of local technicians, actors, and extras hired for film production activity during the reporting period;

(4) a list of companies doing business in the State, including hotels, that directly provided goods or services for film production activity during the reporting period; and

(5) any other information that indicates the economic benefits to the State resulting from film production activity during the reporting period.

(f) (1) Except as provided in paragraph (2) of this subsection**[**, for any fiscal year**]**, the Secretary may not issue tax credit certificates for credit amounts in the aggregate totaling more than**:**

(I) FOR FISCAL YEAR 2014, $25,000,000;

(II) FOR FISCAL YEAR 2015, $7,500,000; AND

(III) FOR FISCAL YEAR 2016, $7,500,000.

(2) If the aggregate credit amounts under the tax credit certificates issued by the Secretary total less than **[**$7,500,000**] THE MAXIMUM PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION** in any fiscal year, any excess amount may be carried forward and issued under tax credit certificates in a subsequent fiscal year.

(g) The Department and the Comptroller jointly shall adopt regulations to carry out the provisions of this section and to specify criteria and procedures for the application for, approval of, and monitoring of continuing eligibility for the tax credit under this section.

Chapter 516 of the Acts of 2011

SECTION 2. AND BE IT FURTHER ENACTED, That **THE FILM PRODUCTION ACTIVITY TAX CREDIT UNDER** § **[**10–729**] 10–730** of the Tax – General Article as enacted by this Act shall take effect July 1, 2011, and shall be applicable to all taxable years beginning after December 31, 2010. **[**Section 10–729**] THE FILM PRODUCTION ACTIVITY TAX CREDIT UNDER § 10–730** of the Tax – General Article as enacted by this Act shall remain effective for a period of **[**3**] 5** years and, at the end of **[**July 1, 2014**] JUNE 30, 2016**, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. The Secretary of Business and Economic Development may not issue **FILM PRODUCTION**

ACTIVITY TAX credit certificates under § **[**10–729**] 10–730** of the Tax – General Article for any fiscal year beginning on or after July 1, **[**2014**] 2016**.

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 29

(Senate Bill 196)

AN ACT concerning

Register of Wills – Salary

FOR the purpose of altering a certain limit on the maximum salary that the Board of Public Works may set for a register of wills; providing that this Act does not apply to the salary or compensation of an incumbent register of wills during a certain term of office; and generally relating to the salary of a register of wills.

BY repealing and reenacting, without amendments,
Article – Estates and Trusts
Section 2–205(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–205(b)
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

2–205.

(a) (1) It is the intent of this section that each register shall receive a fair and adequate compensation for the effort and duties required of the register by the register's office.

(2) The volume and character of work done by the register shall be in comparison to the salary fixed by the Board of Public Works for each of the other registers.

(b) (1) Each register is entitled to receive an annual salary of not more than **[**$98,500**]** **$114,500**, to be determined in each instance by the Board of Public Works.

(2) In determining the annual salary of the register, the Board of Public Works shall be guided in the exercise of its discretion by:

(i) The population of the county determined by the last official United States census;

(ii) The dollar volume of total fees and taxes collected and excess fees turned over to the State for each of the preceding 5 years by the office of the register for which the salary is being fixed; and

(iii) Other pertinent data which have relation to the reasonableness of the salary in relation to the work done and volume handled by the office.

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 registers of wills 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 registers of wills 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 30

(Senate Bill 216)

AN ACT concerning

Harford County – Correctional Officers' Bill of Rights

FOR the purpose of adding Harford County to the provisions of law relating to the Cecil County, Garrett County, and St. Mary's County Correctional Officers' Bill of Rights; providing that certain provisions of law relating to hearing board procedures and the finality of certain hearing board decisions do not apply in Harford County; defining certain terms; and generally relating to the Correctional Officers' Bill of Rights.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 11–1001, 11–1002, 11–1008, and 11–1009
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 – Correctional Services

11–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) **IN HARFORD COUNTY, "AGENCY" MEANS THE OFFICE OF THE SHERIFF OF HARFORD COUNTY.**

(C) (1) "Correctional officer" has the meaning stated in § 8–201 of this article.

(2) "Correctional officer" does not include an officer who is in probationary status on initial entry into the correctional agency except if an allegation of brutality in the execution of the officer's duties is made against the officer.

[(c)**] (D)** (1) "Hearing" means a proceeding during an investigation conducted by a hearing board to take testimony or receive other evidence.

(2) "Hearing" does not include an interrogation at which no testimony is taken under oath.

[(d)**] (E)** "Hearing board" means a board that is authorized by the managing official to hold a hearing on a complaint against a correctional officer.

[(e)**] (F)** "Internal investigation unit" means the internal investigation unit of a correctional facility charged with the investigation of complaints within a correctional facility.

(G) IN HARFORD COUNTY, "MANAGING OFFICIAL" MEANS THE SHERIFF OF HARFORD COUNTY.

11–1002.

This subtitle applies only in Cecil County, Garrett County, **HARFORD COUNTY,** and St. Mary's County.

11–1008.

(a) (1) Except as provided in paragraph (2) of this subsection and § 11–1012 of this subtitle, if the investigation or interrogation of a correctional officer results in a recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive, the correctional officer is entitled to a hearing on the issues by a hearing board before the managing official takes that action.

(2) A correctional officer who has been convicted of a felony is not entitled to a hearing under this section.

(b) (1) The internal investigation unit shall give notice to the correctional officer of the right to a hearing by a hearing board under this section.

(2) The notice required under this subsection shall state the time and place of the hearing and the issues involved.

(c) (1) Except as provided in paragraph (4) of this subsection and in § 11–1012 of this subtitle, the hearing board authorized under this section shall consist of at least three members who:

(i) are appointed by the managing official and chosen from correctional officers within that correctional facility, or from correctional officers of another correctional facility with the approval of the managing official of the other facility; and

(ii) have had no part in the investigation or interrogation of the correctional officer.

(2) At least one member of the hearing board shall be of the same rank as the correctional officer against whom the complaint is filed.

(3) (i) **THIS PARAGRAPH DOES NOT APPLY IN HARFORD COUNTY.**

(II) If the managing official is the correctional officer under investigation, the managing official of another correctional facility in the State shall function as the correctional officer of the same rank on the hearing board.

[(ii)**] (III)** If the managing official of a correctional facility of a county or municipal corporation is under investigation, the official authorized to appoint the managing official's successor shall select the managing official of another correctional facility to function as the correctional officer of the same rank on the hearing board.

(4) (i) **THIS PARAGRAPH DOES NOT APPLY IN HARFORD COUNTY.**

(II) A correctional facility or the facility's superior governmental authority that has recognized and certified an exclusive collective bargaining representative may negotiate with the representative an alternative method of forming a hearing board.

[(ii)**] (III)** A correctional officer may elect the alternative method of forming a hearing board if:

1. the correctional officer works in a correctional facility described in subparagraph **[**(i)**] (II)** of this paragraph; and

2. the correctional officer is included in the collective bargaining unit.

[(iii)**] (IV)** The internal investigation unit shall notify the correctional officer in writing before a hearing board is formed that the correctional officer may elect an alternative method of forming a hearing board if one has been negotiated under this paragraph.

[(iv)**] (V)** If the correctional officer elects the alternative method, that method shall be used to form the hearing board.

[(v)**] (VI)** A correctional facility or exclusive collective bargaining representative may not require a correctional officer to elect an alternative method of forming a hearing board.

[(vi)**] (VII)** If the correctional officer has been offered summary punishment, an alternative method of forming a hearing board may not be used.

[(vii)**] (VIII)** This paragraph is not subject to binding arbitration.

(d) (1) In connection with a disciplinary hearing, the managing official or hearing board may issue subpoenas to compel the attendance and testimony of

witnesses and the production of books, papers, records, and documents as relevant or necessary.

(2) The subpoenas may be served without cost in accordance with the Maryland Rules that relate to service of process issued by a court.

(3) Each party may request the managing official or hearing board to issue a subpoena or order under this subtitle.

(4) In case of disobedience or refusal to obey a subpoena served under this subsection, the managing official may apply without cost to the circuit court of a county where the subpoenaed party resides or conducts business, for an order to compel the attendance and testimony of the witness or the production of the books, papers, records, and documents.

(5) On a finding that the attendance and testimony of the witness or the production of the books, papers, records, and documents is relevant or necessary:

(i) the court may issue without cost an order that requires the attendance and testimony of witnesses or the production of books, papers, records, and documents; and

(ii) failure to obey the order may be punished by the court as contempt.

(e) (1) The hearing shall be conducted by a hearing board.

(2) The hearing board shall give the internal investigation unit and correctional officer ample opportunity to present evidence and argument about the issues involved.

(3) The correctional facility and correctional officer may be represented by counsel.

(4) Each party has the right to cross–examine witnesses who testify and each party may submit rebuttal evidence.

(f) (1) Evidence with probative value that is commonly accepted by reasonable and prudent individuals in the conduct of their affairs is admissible and shall be given probative effect.

(2) The hearing board shall give effect to the rules of privilege recognized by law and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(3) Each record or document that a party desires to use shall be offered and made a part of the record.

(4) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(g) (1) The hearing board may take notice of:

(i) judicially cognizable facts; and

(ii) general, technical, or scientific facts within its specialized knowledge.

(2) The hearing board shall:

(i) notify each party of the facts so noticed either before or during the hearing, or by reference in preliminary reports or otherwise; and

(ii) give each party an opportunity and reasonable time to contest the facts so noticed.

(3) The hearing board may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented.

(h) (1) With respect to the subject of a hearing conducted under this subtitle, the managing official shall administer oaths or affirmations and examine individuals under oath.

(2) In connection with a disciplinary hearing, the managing official or a hearing board may administer oaths.

(i) (1) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court.

(2) Witness fees, mileage, and the actual expenses necessarily incurred in securing the attendance of witnesses and their testimony shall be itemized and paid by the correctional facility.

(j) An official record, including testimony and exhibits, shall be kept of the hearing.

11–1009.

(a) (1) A decision, order, or action taken as a result of a hearing under § 11–1008 of this subtitle shall be in writing and accompanied by findings of fact.

(2) The findings of fact shall consist of a concise statement on each issue in the case.

(3) A finding of not guilty terminates the action.

(4) If the hearing board makes a finding of guilt, the hearing board shall:

(i) reconvene the hearing;

(ii) receive evidence; and

(iii) consider the correctional officer's past job performance and other relevant information as factors before making recommendations to the managing official.

(5) A copy of the decision or order, findings of fact, conclusions, and written recommendations for action shall be delivered or mailed promptly to:

(i) the correctional officer or the correctional officer's counsel or representative of record; and

(ii) the managing official.

(b) (1) After a disciplinary hearing and a finding of guilt, the hearing board may recommend the penalty it considers appropriate under the circumstances, including demotion, dismissal, transfer, loss of pay, reassignment, or other similar action that is considered punitive.

(2) The recommendation of a penalty shall be in writing.

(c) (1) Notwithstanding any other provision of this subtitle, the decision of the hearing board as to findings of fact and any penalty is final if:

(i) a managing official is an eyewitness to the incident under investigation; or

(ii) **EXCEPT IN HARFORD COUNTY,** a managing official has agreed with an exclusive collective bargaining representative recognized or certified under applicable law that the decision is final.

(2) The decision of the hearing board then may be appealed in accordance with § 11–1010 of this subtitle.

(3) Paragraph (1)(ii) of this subsection is not subject to binding arbitration.

(d) (1) Within 30 days after receipt of the recommendations of the hearing board, the managing official shall:

(i) review the findings, conclusions, and recommendations of the hearing board; and

(ii) issue a final order.

(2) The final order and decision of the managing official is binding and then may be appealed in accordance with § 11–1010 of this subtitle.

(3) The recommendation of a penalty by the hearing board is not binding on the managing official.

(4) The managing official shall consider the correctional officer's past job performance as a factor before imposing a penalty.

(5) The managing official may increase the recommended penalty of the hearing board only if the managing official personally:

(i) reviews the entire record of the proceedings of the hearing board;

(ii) meets with the correctional officer and allows the correctional officer to be heard on the record;

(iii) discloses and provides in writing to the correctional officer, at least 10 days before the meeting, any oral or written communication not included in the record of the hearing board on which the decision to consider increasing the penalty is wholly or partly based; and

(iv) states on the record the substantial evidence relied on to support the increase of the recommended penalty.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 31

(House Bill 346)

AN ACT concerning

Harford County – Correctional Officers' Bill of Rights

FOR the purpose of adding Harford County to the provisions of law relating to the Cecil County, Garrett County, and St. Mary's County Correctional Officers' Bill of Rights; providing that certain provisions of law relating to hearing board procedures and the finality of certain hearing board decisions do not apply in Harford County; defining certain terms; and generally relating to the Correctional Officers' Bill of Rights.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 11–1001, 11–1002, 11–1008, and 11–1009
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 – Correctional Services

11–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) **IN HARFORD COUNTY, "AGENCY" MEANS THE OFFICE OF THE SHERIFF OF HARFORD COUNTY.**

(C) (1) "Correctional officer" has the meaning stated in § 8–201 of this article.

(2) "Correctional officer" does not include an officer who is in probationary status on initial entry into the correctional agency except if an allegation of brutality in the execution of the officer's duties is made against the officer.

[(c)**] (D)** (1) "Hearing" means a proceeding during an investigation conducted by a hearing board to take testimony or receive other evidence.

(2) "Hearing" does not include an interrogation at which no testimony is taken under oath.

[(d)**] (E)** "Hearing board" means a board that is authorized by the managing official to hold a hearing on a complaint against a correctional officer.

[(e)**] (F)** "Internal investigation unit" means the internal investigation unit of a correctional facility charged with the investigation of complaints within a correctional facility.

(G) IN HARFORD COUNTY, "MANAGING OFFICIAL" MEANS THE SHERIFF OF HARFORD COUNTY.

11–1002.

This subtitle applies only in Cecil County, Garrett County, **HARFORD COUNTY,** and St. Mary's County.

11–1008.

(a) (1) Except as provided in paragraph (2) of this subsection and § 11–1012 of this subtitle, if the investigation or interrogation of a correctional officer results in a recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive, the correctional officer is entitled to a hearing on the issues by a hearing board before the managing official takes that action.

(2) A correctional officer who has been convicted of a felony is not entitled to a hearing under this section.

(b) (1) The internal investigation unit shall give notice to the correctional officer of the right to a hearing by a hearing board under this section.

(2) The notice required under this subsection shall state the time and place of the hearing and the issues involved.

(c) (1) Except as provided in paragraph (4) of this subsection and in § 11–1012 of this subtitle, the hearing board authorized under this section shall consist of at least three members who:

(i) are appointed by the managing official and chosen from correctional officers within that correctional facility, or from correctional officers of another correctional facility with the approval of the managing official of the other facility; and

(ii) have had no part in the investigation or interrogation of the correctional officer.

(2) At least one member of the hearing board shall be of the same rank as the correctional officer against whom the complaint is filed.

(3) (i) **THIS PARAGRAPH DOES NOT APPLY IN HARFORD COUNTY.**

(II) If the managing official is the correctional officer under investigation, the managing official of another correctional facility in the State shall function as the correctional officer of the same rank on the hearing board.

[(ii)**] (III)** If the managing official of a correctional facility of a county or municipal corporation is under investigation, the official authorized to appoint the managing official's successor shall select the managing official of another correctional facility to function as the correctional officer of the same rank on the hearing board.

(4) (i) **THIS PARAGRAPH DOES NOT APPLY IN HARFORD COUNTY.**

(II) A correctional facility or the facility's superior governmental authority that has recognized and certified an exclusive collective bargaining representative may negotiate with the representative an alternative method of forming a hearing board.

[(ii)**] (III)** A correctional officer may elect the alternative method of forming a hearing board if:

1. the correctional officer works in a correctional facility described in subparagraph **[**(i)**] (II)** of this paragraph; and

2. the correctional officer is included in the collective bargaining unit.

[(iii)**] (IV)** The internal investigation unit shall notify the correctional officer in writing before a hearing board is formed that the correctional officer may elect an alternative method of forming a hearing board if one has been negotiated under this paragraph.

[(iv)**] (V)** If the correctional officer elects the alternative method, that method shall be used to form the hearing board.

[(v)**] (VI)** A correctional facility or exclusive collective bargaining representative may not require a correctional officer to elect an alternative method of forming a hearing board.

[(vi)**] (VII)** If the correctional officer has been offered summary punishment, an alternative method of forming a hearing board may not be used.

[(vii)**] (VIII)** This paragraph is not subject to binding arbitration.

(d) (1) In connection with a disciplinary hearing, the managing official or hearing board may issue subpoenas to compel the attendance and testimony of

witnesses and the production of books, papers, records, and documents as relevant or necessary.

(2) The subpoenas may be served without cost in accordance with the Maryland Rules that relate to service of process issued by a court.

(3) Each party may request the managing official or hearing board to issue a subpoena or order under this subtitle.

(4) In case of disobedience or refusal to obey a subpoena served under this subsection, the managing official may apply without cost to the circuit court of a county where the subpoenaed party resides or conducts business, for an order to compel the attendance and testimony of the witness or the production of the books, papers, records, and documents.

(5) On a finding that the attendance and testimony of the witness or the production of the books, papers, records, and documents is relevant or necessary:

(i) the court may issue without cost an order that requires the attendance and testimony of witnesses or the production of books, papers, records, and documents; and

(ii) failure to obey the order may be punished by the court as contempt.

(e) (1) The hearing shall be conducted by a hearing board.

(2) The hearing board shall give the internal investigation unit and correctional officer ample opportunity to present evidence and argument about the issues involved.

(3) The correctional facility and correctional officer may be represented by counsel.

(4) Each party has the right to cross–examine witnesses who testify and each party may submit rebuttal evidence.

(f) (1) Evidence with probative value that is commonly accepted by reasonable and prudent individuals in the conduct of their affairs is admissible and shall be given probative effect.

(2) The hearing board shall give effect to the rules of privilege recognized by law and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(3) Each record or document that a party desires to use shall be offered and made a part of the record.

(4) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(g) (1) The hearing board may take notice of:

(i) judicially cognizable facts; and

(ii) general, technical, or scientific facts within its specialized knowledge.

(2) The hearing board shall:

(i) notify each party of the facts so noticed either before or during the hearing, or by reference in preliminary reports or otherwise; and

(ii) give each party an opportunity and reasonable time to contest the facts so noticed.

(3) The hearing board may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented.

(h) (1) With respect to the subject of a hearing conducted under this subtitle, the managing official shall administer oaths or affirmations and examine individuals under oath.

(2) In connection with a disciplinary hearing, the managing official or a hearing board may administer oaths.

(i) (1) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court.

(2) Witness fees, mileage, and the actual expenses necessarily incurred in securing the attendance of witnesses and their testimony shall be itemized and paid by the correctional facility.

(j) An official record, including testimony and exhibits, shall be kept of the hearing.

11–1009.

(a) (1) A decision, order, or action taken as a result of a hearing under § 11–1008 of this subtitle shall be in writing and accompanied by findings of fact.

(2) The findings of fact shall consist of a concise statement on each issue in the case.

(3) A finding of not guilty terminates the action.

(4) If the hearing board makes a finding of guilt, the hearing board shall:

(i) reconvene the hearing;

(ii) receive evidence; and

(iii) consider the correctional officer's past job performance and other relevant information as factors before making recommendations to the managing official.

(5) A copy of the decision or order, findings of fact, conclusions, and written recommendations for action shall be delivered or mailed promptly to:

(i) the correctional officer or the correctional officer's counsel or representative of record; and

(ii) the managing official.

(b) (1) After a disciplinary hearing and a finding of guilt, the hearing board may recommend the penalty it considers appropriate under the circumstances, including demotion, dismissal, transfer, loss of pay, reassignment, or other similar action that is considered punitive.

(2) The recommendation of a penalty shall be in writing.

(c) (1) Notwithstanding any other provision of this subtitle, the decision of the hearing board as to findings of fact and any penalty is final if:

(i) a managing official is an eyewitness to the incident under investigation; or

(ii) **EXCEPT IN HARFORD COUNTY,** a managing official has agreed with an exclusive collective bargaining representative recognized or certified under applicable law that the decision is final.

(2) The decision of the hearing board then may be appealed in accordance with § 11–1010 of this subtitle.

(3) Paragraph (1)(ii) of this subsection is not subject to binding arbitration.

(d) (1) Within 30 days after receipt of the recommendations of the hearing board, the managing official shall:

(i) review the findings, conclusions, and recommendations of the hearing board; and

(ii) issue a final order.

(2) The final order and decision of the managing official is binding and then may be appealed in accordance with § 11–1010 of this subtitle.

(3) The recommendation of a penalty by the hearing board is not binding on the managing official.

(4) The managing official shall consider the correctional officer's past job performance as a factor before imposing a penalty.

(5) The managing official may increase the recommended penalty of the hearing board only if the managing official personally:

(i) reviews the entire record of the proceedings of the hearing board;

(ii) meets with the correctional officer and allows the correctional officer to be heard on the record;

(iii) discloses and provides in writing to the correctional officer, at least 10 days before the meeting, any oral or written communication not included in the record of the hearing board on which the decision to consider increasing the penalty is wholly or partly based; and

(iv) states on the record the substantial evidence relied on to support the increase of the recommended penalty.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 32

(Senate Bill 217)

AN ACT concerning

Vehicle Laws – Registration Plates for Individuals with Disabilities – Parking in Baltimore County

FOR the purpose of authorizing an individual for whom special registration plates for individuals with disabilities are issued to park in a designated zone for the handicapped established by Baltimore County on any county road, subject to a certain restriction; making a stylistic change; and generally relating to parking in Baltimore County and special registration plates for individuals with disabilities.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–616(f)(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 – Transportation

13–616.

(f) (2) The person for whom special registration plates are issued under this section or under a similar provision of any other state or country:

(i) 1. Except as provided in items (ii) and (iii) of this paragraph, may park for unlimited periods in parking zones restricted as to the length of parking time permitted; and

2. Is not required to pay any parking meter fees of this State or of any political subdivision of this State where parking meters do not meet the requirements of the Americans with Disabilities Act;

(ii) May park in a parking space equipped with a parking meter only for:

1. Except as provided in item **[**(ii)2**]** **2** of this **[**paragraph**]** **ITEM**, twice the maximum time period permitted on the parking meter but not to exceed a maximum of 4 hours; and

2. If the parking meter permits parking for more than 4 hours, the period permitted on the parking meter; and

(iii) Subject to the posted time restriction specified for **[**this**]** **THE** parking zone, may park in a designated zone for the handicapped established **[**at**]:**

1. AT any State–owned airport**; OR**

2. BY BALTIMORE COUNTY ON ANY COUNTY HIGHWAY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 33

(House Bill 320)

AN ACT concerning

Vehicle Laws – Registration Plates for Individuals with Disabilities – Parking in Baltimore County

FOR the purpose of authorizing an individual for whom special registration plates for individuals with disabilities are issued to park in a designated zone for the handicapped established by Baltimore County on any county road, subject to a certain restriction; making a stylistic change; and generally relating to parking in Baltimore County and special registration plates for individuals with disabilities.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–616(f)(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 – Transportation

13–616.

(f) (2) The person for whom special registration plates are issued under this section or under a similar provision of any other state or country:

(i) 1. Except as provided in items (ii) and (iii) of this paragraph, may park for unlimited periods in parking zones restricted as to the length of parking time permitted; and

2. Is not required to pay any parking meter fees of this State or of any political subdivision of this State where parking meters do not meet the requirements of the Americans with Disabilities Act;

(ii) May park in a parking space equipped with a parking meter only for:

1. Except as provided in item **[**(ii)2**]** **2** of this **[**paragraph**]** **ITEM**, twice the maximum time period permitted on the parking meter but not to exceed a maximum of 4 hours; and

2. If the parking meter permits parking for more than 4 hours, the period permitted on the parking meter; and

(iii) Subject to the posted time restriction specified for **[**this**]** **THE** parking zone, may park in a designated zone for the handicapped established **[**at**]:**

1. AT any State–owned airport**; OR**

2. BY BALTIMORE COUNTY ON ANY COUNTY HIGHWAY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 34

(Senate Bill 239)

AN ACT concerning

Judgeships – Court of Special Appeals, Circuit Courts, and District Court

FOR the purpose of altering the number of judges of the Court of Special Appeals; altering the number of resident judges of the circuit court in certain judicial circuits; altering the number of associate judges of the District Court in certain districts; altering the number of District Court judges to be appointed from a certain county; and generally relating to judgeships in certain courts.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 1–402, 1–503, and 1–603

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

1–402.

(a) The Court of Special Appeals consists of **[**13**] 15** judges, one of whom shall be designated by the Governor as Chief Judge.

(b) Except as otherwise provided in this section, the judges of the Court of Special Appeals shall be selected, appointed, retained, removed from office, or retired as provided in Article IV of the Maryland Constitution with respect to judges of the Court of Appeals. One judge of the Court of Special Appeals shall be a resident respectively of each of the appellate judicial circuits defined in Article IV, § 14 of the Maryland Constitution. When election to judicial office is required by the Constitution, each of these judges shall be elected by the qualified voters of his circuit of residence. The remaining judges of the Court of Special Appeals may be residents of any part of the State and, when election to judicial office is required by the Constitution, shall be elected by the qualified voters of the entire State. The term of a judge of the Court of Special Appeals begins on the date of his qualification for office.

1–503.

(a) In each county in the first seven judicial circuits there shall be the number of resident judges of the circuit court set forth below, including the judge or judges provided for by the Constitution:

(1) Allegany 2

(2) Anne Arundel 12

(3) Baltimore County 18

(4) Calvert ..... **[**2**] 3**

(5) Caroline 1

(6) Carroll ..... **[**3**] 4**

(7) Charles 4

(8) Cecil ..... **[**3**] 4**

(9) Dorchester 1

(10) Frederick ..... **[**4**] 5**

(11) Garrett 1

(12) Harford 5

(13) Howard 5

(14) Kent 1

(15) Montgomery 22

(16) Prince George's 23

(17) Queen Anne's 1

(18) St. Mary's 3

(19) Somerset 1

(20) Talbot 1

(21) Washington 5

(22) Wicomico ..... **[**3**] 4**

(23) Worcester 3

(b) In Baltimore City there shall be 33 resident judges of the Circuit Court for Baltimore City.

1–603.

(a) The court is composed of a Chief Judge and the number of associate judges provided for in subsection (b) of this section. If the Chief Judge is relieved of the Judge's duties as Chief Judge but not removed from office as a judge of the District Court, the Chief Judge shall serve for the remainder of the Judge's term of office as a District Court judge, as a resident judge of the Judge's district and county of residence, without reference to the maximum number of judges for that district prescribed in subsection (b) of this section.

(b) In each of the districts provided for in § 1–602 of this subtitle, there shall be the following number of associate judges of the District Court:

(1) District 1 — **[**27**] 28**

(2) District 2 — 6, two to be appointed from Wicomico County and two to be appointed from Worcester County

(3) District 3 — 6, two to be appointed from Cecil County

(4) District 4 — **[**5**] 6**, two to be appointed from Calvert County and **[**two**] THREE** to be appointed from Charles County

(5) District 5 — **[**15**] 16**

(6) District 6 — **[**11**] 12**

(7) District 7 — 9

(8) District 8 — 13

(9) District 9 — 4

(10) District 10 — 7, two to be appointed from Carroll County and five to be appointed from Howard County

(11) District 11 — 5, three to be appointed from Frederick County and two to be appointed from Washington County

(12) District 12 — 3, two to be appointed from Allegany County

(c) In each district comprising more than one county, there shall be at least one District Court judge resident and holding court in each county in the district.

(d) To assure that the services of the District Court are readily and practicably available in all areas of District 8 and to assure that these services are provided to all citizens of District 8 with a minimum of inconvenience and a maximum of availability, there shall be a court facility physically located in each of the following areas of that district, and at least one judge shall sit regularly in each location:

(1) The Towson area;

(2) The Catonsville area; and

(3) The Essex area.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 35

(Senate Bill 262)

AN ACT concerning

Task Force to Study Implementing a Civil Right to Counsel in Maryland

FOR the purpose of establishing the Task Force to Study Implementing a Civil Right to Counsel 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 study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to certain public officials on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study Implementing a Civil Right to Counsel in Maryland.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Implementing a Civil Right to Counsel in Maryland.

(b) The Task Force consists of the following members:

(1) three members of the Senate of Maryland, appointed by the President of the Senate;

(2) three members of the House of Delegates, appointed by the Speaker of the House;

(3) three members appointed by the Governor, one of whom shall be an attorney who is a member of the Maryland State Bar Association and who is appointed after consultation with the President of the Maryland State Bar Association and one of whom shall be an attorney or a legal provider or both; and

(4) three members who are representatives of the Judiciary, appointed by the Chief Judge of the Court of Appeals.

(c) The Chief Judge of the Court of Appeals shall designate the chair of the Task Force, who shall have a vote in the recommendations of the Task Force.

(d) The Maryland Access to Justice Commission 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:

(1) study the current resources available to assist in providing counsel to low–income Marylanders compared to the depth of the unmet need, including the resulting burden on the court system and the stress on other public resources;

(2) study whether low–income Marylanders should have the right to counsel at public expense in basic human needs cases, such as those involving shelter, sustenance, safety, health, or child custody, including review and analysis of the Maryland Access to Justice Commission's "Implementing a Civil Right to Counsel in Maryland" report and each other previous report by a task force, commission, or workgroup on this issue;

(3) study alternatives regarding the currently underserved citizenry of the State and the operation of the court system;

(4) study how the right to counsel might be implemented in Maryland;

(5) study the costs to provide meaningful access to counsel and the savings to the court system and other public resources;

(6) study the possible revenue sources; and

(7) make recommendations regarding the matters described in this subsection.

(g) On or before October 1, 2014, the Task Force shall report its findings and recommendations to the Governor, the Chief Judge of the Court of Appeals, and, in accordance with § 2–1246 of the State Government Article, the President of the Senate, the Speaker of the House, the Senate Budget and Taxation Committee, the Senate Judicial Proceedings Committee, the House Appropriations Committee, and the House Judiciary Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of 1 year and, at the end of September 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, April 9, 2013.

Chapter 36

(Senate Bill 264)

AN ACT concerning

Children in Need of Assistance – Review Hearings

FOR the purpose of requiring the juvenile court to conduct certain hearings within certain periods of time to review the status of certain children under its jurisdiction; requiring the juvenile court to take certain actions at a review hearing under this Act; establishing that a certain hearing to review a child's permanency plan satisfies the requirements for a review hearing under this Act; and generally relating to children in need of assistance.

BY adding to
Article – Courts and Judicial Proceedings
Section 3–816.2
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

3–816.2.

(A) (1) THE COURT SHALL CONDUCT A HEARING TO REVIEW THE STATUS OF EACH CHILD UNDER ITS JURISDICTION WITHIN 6 MONTHS AFTER THE FILING OF THE FIRST PETITION UNDER THIS SUBTITLE AND AT LEAST EVERY 6 MONTHS THEREAFTER.

(2) AT A REVIEW HEARING UNDER THIS SECTION, THE COURT SHALL:

(I) EVALUATE THE SAFETY OF THE CHILD;

(II) DETERMINE THE CONTINUING NECESSITY FOR AND APPROPRIATENESS OF ANY OUT–OF–HOME PLACEMENT;

(III) DETERMINE THE <u>APPROPRIATENESS OF AND</u> EXTENT OF COMPLIANCE WITH THE CASE PLAN FOR THE CHILD;

(IV) DETERMINE THE EXTENT OF PROGRESS THAT HAS BEEN MADE TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING THE COURT'S JURISDICTION; AND

(V) PROJECT A REASONABLE DATE BY WHICH THE CHILD MAY BE RETURNED TO AND SAFELY MAINTAINED IN THE HOME OR PLACED FOR ADOPTION OR UNDER A LEGAL GUARDIANSHIP.

(B) IF A PERMANENCY PLAN FOR THE CHILD HAS BEEN DETERMINED UNDER § 3–823 OF THIS SUBTITLE, A REVIEW HEARING CONDUCTED BY THE COURT UNDER § 3–823(H) OF THIS SUBTITLE SHALL SATISFY 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, April 9, 2013.

Chapter 37

(Senate Bill 265)

AN ACT concerning

Children in Need of Assistance – Rights of Preadoptive Parents, Foster Parents, and Caregivers of Child

FOR the purpose of expanding the proceedings for which a local department of social services is required to provide certain notice to preadoptive parents and foster parents of a child under certain circumstances and at which preadoptive parents, foster parents, or their attorneys have the right to be heard; repealing a requirement that a local department of social services provide certain notice to certain relatives of a child and substituting a requirement that the local department provide certain notice to caregivers of a child; repealing the right of certain relatives or their attorneys to be heard in certain proceedings concerning the child and substituting the right of caregivers of a child or their attorneys to be heard in certain proceedings concerning the child; establishing that certain individuals may not be considered to be a party solely on the basis of certain rights; defining a certain term; and generally relating to the rights of preadoptive parents, foster parents, and caregivers of a child.

BY adding to
Article – Courts and Judicial Proceedings
Section 3–816.2

Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing
Article – Courts and Judicial Proceedings
Section 3–823(i)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–823(j) and (k)
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

3–816.2.

(A) IN THIS SECTION, "PREADOPTIVE PARENT" MEANS AN INDIVIDUAL WHOM A CHILD PLACEMENT AGENCY, AS DEFINED IN § 5–101 OF THE FAMILY LAW ARTICLE, APPROVES TO ADOPT A CHILD WHO HAS BEEN PLACED IN THE INDIVIDUAL'S HOME FOR ADOPTION BEFORE THE ORDER OF ADOPTION.

(B) UNLESS WAIVED FOR GOOD CAUSE, BEFORE ANY PROCEEDING CONCERNING A CHILD, THE LOCAL DEPARTMENT SHALL GIVE AT LEAST 10 DAYS' NOTICE IN WRITING TO THE CHILD'S FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER OF THE DATE, TIME, AND PLACE OF THE PROCEEDING AND OF THE RIGHT TO BE HEARD AT THE PROCEEDING.

(C) THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR AN ATTORNEY FOR THE FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER SHALL BE GIVEN THE RIGHT TO BE HEARD AT THE PROCEEDING.

(D) THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR ATTORNEY MAY NOT BE CONSIDERED TO BE A PARTY SOLELY ON THE BASIS OF THE RIGHT TO NOTICE AND THE RIGHT TO BE HEARD PROVIDED UNDER THIS SECTION.

3–823.

[(i) (1) In this subsection, "preadoptive parent" means an individual whom a child placement agency, as defined in § 5–101 of the Family Law Article, approves to adopt a child who has been placed in the individual's home for adoption before the order of adoption.

(2) (i) If practicable, before any hearing conducted under this section, the local department shall give at least 10 days' notice to the child's foster parent, preadoptive parent, or relative providing care for the child of the date, time, and place of the hearing and of the right to be heard.

(ii) Unless waived for good cause, the notice shall be in writing.

(3) The foster parent, preadoptive parent, relative, or an attorney for the foster parent, preadoptive parent, or relative shall be given the right to be heard at the hearing.

(4) The foster parent, preadoptive parent, relative, or attorney may not be considered to be a party solely on the basis of the right to notice and the right to be heard provided under this subsection.**]**

[(j)**] (I)** At a review hearing under this section, the court shall consider any written report of a local out–of–home care review board required under § 5–545 of the Family Law Article.

[(k)**] (J)** (1) At least every 12 months at a hearing under this section, the court shall consult on the record with the child in an age–appropriate manner to obtain the child's views on permanency.

(2) (i) If, after a hearing or with the agreement of all parties, the court determines that the child is medically fragile and that it is detrimental to the child's physical or mental health to be transported to the courthouse, the court may, subject to subparagraph (ii) of this paragraph:

1. Visit the child at the child's placement and use appropriate technology to document the consultation for the record; or

2. Use video conferencing to consult with the child on the record during the hearing.

(ii) If the court visits the child at the child's placement under subparagraph (i)1 of this paragraph or uses video conferencing under subparagraph (i)2 of this paragraph, the court shall give each party notice and an opportunity to attend the visit or the video conferencing, unless the court determines that it is not in the best interest of the child for a party to attend the visit or the video conferencing.

(3) Subject to the provisions of paragraph (2)(ii) of this subsection, if the child's placement is outside the State and, after a hearing or with the agreement of

all parties, the court determines that it is not in the best interest of the child to be transported to the court, the court may use video conferencing to consult with the child on the record during the hearing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 38

(Senate Bill 267)

AN ACT concerning

Courts and Judicial Proceedings – Interception of Communications – Abuse or Neglect of Vulnerable Adult and Medicaid Fraud

FOR the purpose of adding abuse or neglect of a vulnerable adult and offenses relating to Medicaid fraud to those crimes for which certain evidence may be gathered by, and a judge may grant an order authorizing, interception of oral, wire, or electronic communications; and generally relating to interception of communications.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 10–402(c)(2) and 10–406(a)
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

10–402.

(c) (2) (i) This paragraph applies to an interception in which:

1. The investigative or law enforcement officer or other person is a party to the communication; or

2. One of the parties to the communication has given prior consent to the interception.

(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:

1. Of the commission of:

A. Murder;

B. Kidnapping;

C. Rape;

D. A sexual offense in the first or second degree;

E. Child abuse in the first or second degree;

F. Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;

G. Gambling;

H. Robbery under § 3–402 or § 3–403 of the Criminal Law Article;

I. A felony under Title 6, Subtitle 1 of the Criminal Law Article;

J. Bribery;

K. Extortion;

L. Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;

M. A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;

N. An offense relating to destructive devices under § 4–503 of the Criminal Law Article;

O. A human trafficking offense under § 11–303 of the Criminal Law Article;

P. Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

Q. An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

R. Sexual abuse of a minor under § 3–602 of the Criminal Law Article;

S. A theft scheme or continuing course of conduct under § 7–103(f) of the Criminal Law Article involving an aggregate value of property or services of at least $10,000; **[**or**]**

T. ABUSE OR NEGLECT OF A VULNERABLE ADULT UNDER § 3–604 OR § 3–605 OF THE CRIMINAL LAW ARTICLE;

U. AN OFFENSE RELATING TO MEDICAID FRAUD UNDER §§ 8–509 THROUGH 8–515 OF THE CRIMINAL LAW ARTICLE; OR

[T.**] V.** A conspiracy or solicitation to commit an offense listed in items A through **[**S**] U** of this item; or

2. If:

A. A person has created a barricade situation; and

B. Probable cause exists for the investigative or law enforcement officer to believe a hostage or hostages may be involved.

10–406.

(a) The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:

(1) Murder;

(2) Kidnapping;

(3) Rape;

(4) A sexual offense in the first or second degree;

(5) Child abuse in the first or second degree;

(6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;

(7) Gambling;

(8) Robbery under § 3–402 or § 3–403 of the Criminal Law Article;

(9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;

(10) Bribery;

(11) Extortion;

(12) Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;

(13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;

(14) An offense relating to destructive devices under § 4–503 of the Criminal Law Article;

(15) A human trafficking offense under § 11–303 of the Criminal Law Article;

(16) Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

(17) An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

(18) Sexual abuse of a minor under § 3–602 of the Criminal Law Article;

(19) A theft scheme or continuing course of conduct under § 7–103(f) of the Criminal Law Article involving an aggregate value of property or services of at least $10,000; **[**or**]**

(20) ABUSE OR NEGLECT OF A VULNERABLE ADULT UNDER § 3–604 OR § 3–605 OF THE CRIMINAL LAW ARTICLE;

(21) AN OFFENSE RELATING TO MEDICAID FRAUD UNDER §§ 8–509 THROUGH 8–515 OF THE CRIMINAL LAW ARTICLE; OR

[(20)**] (22)** A conspiracy or solicitation to commit an offense listed in items (1) through **[**(19)**] (21)** of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 39

(House Bill 116)

AN ACT concerning

Courts and Judicial Proceedings – Interception of Communications – Abuse or Neglect of Vulnerable Adult and Medicaid Fraud

FOR the purpose of adding abuse or neglect of a vulnerable adult and offenses relating to Medicaid fraud to those crimes for which certain evidence may be gathered by, and a judge may grant an order authorizing, interception of oral, wire, or electronic communications; and generally relating to interception of communications.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 10–402(c)(2) and 10–406(a)
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

10–402.

(c) (2) (i) This paragraph applies to an interception in which:

1. The investigative or law enforcement officer or other person is a party to the communication; or

2. One of the parties to the communication has given prior consent to the interception.

(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:

1. Of the commission of:

A. Murder;

B. Kidnapping;

C. Rape;

D. A sexual offense in the first or second degree;

E. Child abuse in the first or second degree;

F. Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;

G. Gambling;

H. Robbery under § 3–402 or § 3–403 of the Criminal Law Article;

I. A felony under Title 6, Subtitle 1 of the Criminal Law Article;

J. Bribery;

K. Extortion;

L. Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;

M. A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;

N. An offense relating to destructive devices under § 4–503 of the Criminal Law Article;

O. A human trafficking offense under § 11–303 of the Criminal Law Article;

P. Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

Q. An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

R. Sexual abuse of a minor under § 3–602 of the Criminal Law Article;

S. A theft scheme or continuing course of conduct under § 7–103(f) of the Criminal Law Article involving an aggregate value of property or services of at least $10,000; **[**or**]**

T. ABUSE OR NEGLECT OF A VULNERABLE ADULT UNDER § 3–604 OR § 3–605 OF THE CRIMINAL LAW ARTICLE;

U. AN OFFENSE RELATING TO MEDICAID FRAUD UNDER §§ 8–509 THROUGH 8–515 OF THE CRIMINAL LAW ARTICLE; OR

[T.**] V.** A conspiracy or solicitation to commit an offense listed in items A through **[**S**] U** of this item; or

2. If:

A. A person has created a barricade situation; and

B. Probable cause exists for the investigative or law enforcement officer to believe a hostage or hostages may be involved.

10–406.

(a) The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:

(1) Murder;

(2) Kidnapping;

(3) Rape;

(4) A sexual offense in the first or second degree;

(5) Child abuse in the first or second degree;

(6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;

(7) Gambling;

(8) Robbery under § 3–402 or § 3–403 of the Criminal Law Article;

(9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;

(10) Bribery;

(11) Extortion;

(12) Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;

(13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;

(14) An offense relating to destructive devices under § 4–503 of the Criminal Law Article;

(15) A human trafficking offense under § 11–303 of the Criminal Law Article;

(16) Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

(17) An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

(18) Sexual abuse of a minor under § 3–602 of the Criminal Law Article;

(19) A theft scheme or continuing course of conduct under § 7–103(f) of the Criminal Law Article involving an aggregate value of property or services of at least $10,000; **[**or**]**

(20) ABUSE OR NEGLECT OF A VULNERABLE ADULT UNDER § 3–604 OR § 3–605 OF THE CRIMINAL LAW ARTICLE;

(21) AN OFFENSE RELATING TO MEDICAID FRAUD UNDER §§ 8–509 THROUGH 8–515 OF THE CRIMINAL LAW ARTICLE; OR

[(20)**] (22)** A conspiracy or solicitation to commit an offense listed in items (1) through **[**(19)**] (21)** of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 40

(Senate Bill 282)

AN ACT concerning

Video Lottery Facilities – Employee Licenses – Crimes of Moral Turpitude or Gambling

FOR the purpose of limiting the requirement that the State Lottery Commission deny a video lottery employee license to an applicant convicted for a crime involving moral turpitude or gambling to those applicants convicted, paroled, or on probation for the crime within a certain prior period; making this Act an emergency measure; and generally relating to video lottery employee licenses.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–14
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–14.

(a) Unless an individual holds a valid video lottery employee license issued by the Commission, the individual may not be employed by a video lottery operation licensee as a video lottery employee.

(b) Before issuance of a video lottery employee license, an applicant shall provide sufficient information, documentation, and assurances that the Commission may require.

(c) The Commission shall deny a video lottery employee license to an applicant who is disqualified due to:

(1) the applicant's failure to prove the applicant's good character, honesty, and integrity;

(2) the applicant's lack of expertise or training to be a video lottery employee;

(3) the applicant's conviction**, ACTIVE PAROLE, OR PROBATION** for any crime involving moral turpitude or gambling under the laws of the United States or any state **WITHIN THE PRIOR 7 YEARS**;

(4) the applicant's current prosecution for any crime involving moral turpitude or gambling under the laws of the United States or any state, but, at the request of the applicant, the Commission may defer a decision on the application during the pendency of the charge;

(5) pursuit by the applicant of economic gain in an occupational manner or context that is in violation of the laws of the State, if the pursuit creates a reasonable belief that participation of the applicant in video lottery operations would be inimical to the policies of this subtitle;

(6) identification of the applicant as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in a manner that creates a reasonable belief that the association is of a nature as to be inimical to the policies of this subtitle;

(7) commission of an act by the applicant that would constitute an offense described under item (3) of this subsection, even if the act has not been or may not be prosecuted under the criminal laws of the State;

(8) willful defiance by the applicant or a person that is required to be qualified under this subtitle as a condition of a license of a legislative investigatory body or other official investigatory body of the United States or a jurisdiction within the United States when the body is engaged in the investigation of crimes relating to gambling, official corruption, or organized crime activity; and

(9) any other reason established in the regulations of the Commission as a reason for denying a license.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 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 41

(House Bill 1053)

AN ACT concerning

Video Lottery Facilities – Employee Licenses – Crimes of Moral Turpitude or Gambling

FOR the purpose of limiting the requirement that the State Lottery Commission deny a video lottery employee license to an applicant convicted for a crime involving moral turpitude or gambling to those applicants convicted, paroled, or on probation for the crime within a certain prior period; making this Act an emergency measure; and generally relating to video lottery employee licenses.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–14
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–14.

(a) Unless an individual holds a valid video lottery employee license issued by the Commission, the individual may not be employed by a video lottery operation licensee as a video lottery employee.

(b) Before issuance of a video lottery employee license, an applicant shall provide sufficient information, documentation, and assurances that the Commission may require.

(c) The Commission shall deny a video lottery employee license to an applicant who is disqualified due to:

(1) the applicant's failure to prove the applicant's good character, honesty, and integrity;

(2) the applicant's lack of expertise or training to be a video lottery employee;

(3) the applicant's conviction**, ACTIVE PAROLE, OR PROBATION** for any crime involving moral turpitude or gambling under the laws of the United States or any state **WITHIN THE PRIOR ~~5~~ 7 YEARS**;

(4) the applicant's current prosecution for any crime involving moral turpitude or gambling under the laws of the United States or any state, but, at the request of the applicant, the Commission may defer a decision on the application during the pendency of the charge;

(5) pursuit by the applicant of economic gain in an occupational manner or context that is in violation of the laws of the State, if the pursuit creates a reasonable belief that participation of the applicant in video lottery operations would be inimical to the policies of this subtitle;

(6) identification of the applicant as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in a manner that creates a reasonable belief that the association is of a nature as to be inimical to the policies of this subtitle;

(7) commission of an act by the applicant that would constitute an offense described under item (3) of this subsection, even if the act has not been or may not be prosecuted under the criminal laws of the State;

(8) willful defiance by the applicant or a person that is required to be qualified under this subtitle as a condition of a license of a legislative investigatory body or other official investigatory body of the United States or a jurisdiction within the United States when the body is engaged in the investigation of crimes relating to gambling, official corruption, or organized crime activity; and

(9) any other reason established in the regulations of the Commission as a reason for denying a license.

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 42

(Senate Bill 283)

AN ACT concerning

Annual Curative Bill

FOR the purpose of generally curing previous Acts of the General Assembly with possible title defects; requiring the State Department of Education or the Governor to appoint a member of the Maryland Advisory Council for Virtual Learning in the event of a vacancy; prohibiting a member of the Council from receiving compensation but authorizing the reimbursement of certain expenses; providing for the effect and construction of certain provisions of this Act; making this Act an emergency measure; and generally repealing and reenacting without amendments certain Acts of the General Assembly that may be subject to possible title defects in order to validate those Acts.

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 4A–601 through 4A–606.1
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 7–10B–04
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–206(j)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Estates and Trusts
Section 13–324
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 8–704.1 and 8–1808.2(d)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,
Chapter 485 of the Acts of the General Assembly of 2009, as amended by Chapter 483 of the Acts of the General Assembly of 2010 and Chapter 444 of the Acts of the General Assembly of 2012

Section 1(3) Item QB08.02(A)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Corporations and Associations

4A–601.

(a) A person becomes a member of a limited liability company at:

(1) The time the limited liability company is formed;

(2) A later time specified in the operating agreement; or

(3) The time specified in § 4A–902(b)(1) of this title relating to continuation of the limited liability company after there are no remaining members.

(b) After the formation of a limited liability company, a person may be admitted as a member:

(1) In the case of a person acquiring a membership interest directly from the limited liability company, upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the unanimous consent of the members;

(2) In the case of an assignee of the economic interest of a member, only as provided in § 4A–604 of this subtitle; or

(3) In the case of a personal representative or successor to the last remaining member who is not an assignee of the last remaining member, as provided in § 4A–902(b)(1) of this title.

(c) Unless otherwise agreed, a person may be admitted as a member of a limited liability company and may be the sole member of a limited liability company without:

(1) Making a capital contribution to the limited liability company;

(2) Being obligated to make a capital contribution to the limited liability company; or

(3) Acquiring an economic interest in the limited liability company.

4A–602.

A membership interest in a limited liability company is personal property.

4A–603.

(a) Unless otherwise agreed:

(1) Only an economic interest in a limited liability company may be assigned; and

(2) An economic interest is wholly or partly assignable.

(b) An assignment of an economic interest in a limited liability company does not:

(1) Dissolve the limited liability company; or

(2) Entitle the assignee to:

(i) Become a member; or

(ii) Exercise any rights of a member, including the noneconomic interest of the assignor.

(c) If an assignee of an economic interest in a limited liability company becomes a member of the limited liability company, the assignor is not released from the assignor's liability under § 4A–502 of this title to the limited liability company.

(d) On assignment of all of a member's economic interest in a limited liability company, the member ceases to be a member of the limited liability company and forfeits the member's noneconomic interest in the limited liability company.

(e) The pledge or grant of a security interest, lien, or other encumbrance in or against all or a part of the economic interest of a member does not cause the member to cease to be a member or affect the member's noneconomic interest in the limited liability company.

4A–604.

(a) An assignee of an economic interest in a limited liability company may become a member of the limited liability company under any of the following circumstances:

(1) In accordance with the terms of the operating agreement providing for the admission of a member;

(2) By the unanimous consent of the members; or

(3) If there are no remaining members of the limited liability company at the time the assignee obtains the economic interest, on terms that the assignee may determine in accordance with § 4A–902(b)(1) of this title.

(b) An assignee who becomes a member:

(1) Has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the operating agreement and this title; and

(2) Is liable for any obligations of his assignor to make capital contributions.

4A–605.

(a) Unless otherwise agreed, a member may withdraw from a limited liability company prior to the dissolution and winding up of the limited liability company by giving not less than 6 months' prior written notice to the other members at their respective addresses as shown on the books and records of the limited liability company.

(b) The operating agreement may provide that a member may not withdraw or otherwise place limits on the ability of a member to withdraw.

4A–606.

Unless otherwise agreed, a person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

(1) The person withdraws from the limited liability company as authorized by § 4A–605 of this subtitle;

(2) The person is removed as a member in accordance with the operating agreement;

(3) The person:

(i) Makes an assignment for the benefit of creditors;

(ii) Institutes a voluntary proceeding with respect to the person under the federal bankruptcy code;

(iii) Is adjudged bankrupt or insolvent or has entered against the person an order for relief in any bankruptcy or insolvency proceeding;

(iv) Files a petition or answer seeking for that person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(v) Seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the member or of all or any substantial part of the person's properties; or

(vi) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the person in any proceeding described in this subsection;

(4) The continuation of any proceeding against the person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, for 120 days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the members or all or any substantial part of the person's properties without the person's agreement or acquiescence, which appointment is not vacated or stayed for 120 days or, if the appointment is stayed, for 120 days after the expiration of the stay during which period the appointment is not vacated;

(5) In the case of a member who is an individual, the individual's:

(i) Death; or

(ii) Adjudication by a court of competent jurisdiction as incompetent to manage the individual's person or property;

(6) In the case of a member who is acting as a member by virtue of being a trustee of a trust, the termination of the trust;

(7) In the case of a member that is a partnership or another limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company;

(8) In the case of a member that is a corporation, the dissolution of the corporation or the revocation of its charter;

(9) In the case of a member that is an estate, the distribution by the fiduciary of the estate's entire economic interest in the limited liability company; or

(10) On assignment of all of a person's economic interest in the limited liability company as provided in § 4A–603(d) of this subtitle.

4A–606.1.

(a) Unless otherwise agreed, if a person ceases to be a member of a limited liability company under § 4A–606 of this subtitle, and the limited liability company is not dissolved as a result, then, within a reasonable time after the person ceased to be a member, the limited liability company may elect to pay the person or the person's successor in interest, in complete liquidation of the person's membership interest, the fair value of the person's economic interest in the limited liability company as of the date the person ceased to be a member, based upon the person's right to share in distributions from the limited liability company.

(b) If a person ceases to be a member of a limited liability company under § 4A–606 of this subtitle and the limited liability company elects not to completely liquidate the person's membership interest under § 4A–606.1(a) of this subtitle, that person will be deemed to be an assignee of the unredeemed economic interest under §§ 4A–603 and 4A–604 of this subtitle.

DRAFTER'S NOTE:

Error: Function paragraphs of bills being cured incorrectly indicated that §§ 4A–601 through 4A–601.1, rather than §§ 4A–601 through 4A–606.1, of the Corporations and Associations Article were being amended.

Occurred: Chapters 599 and 600 (Senate Bill 855/House Bill 777) of the Acts of 2012.

Article – Education

7–10B–04.

(a) The Council consists of the following members:

(1) The State Superintendent or the State Superintendent's designee;

(2) The Director of the Maryland Virtual Learning Opportunities Office within the Department;

(3) Two members of the Senate of Maryland appointed by the President of the Senate;

(4) Two members of the House of Delegates of Maryland appointed by the Speaker of the House;

(5) The following members appointed by the Governor:

(i) One local superintendent of schools;

(ii) One representative of the Maryland Association of Boards of Education;

(iii) One representative of the Maryland Parent Teacher Association;

(iv) Two representatives of virtual learning providers;

(v) One representative of the business community;

(vi) One parent of a student participating in digital learning opportunities;

(vii) One school teacher engaged in digital instruction;

(viii) One member of the Baltimore Teachers Union;

(ix) One member of the Maryland State Education Association; and

(x) One charter school advocate; and

(6) Six members appointed by the Department that are employees of local schools that have excelled in the ability to incorporate technology into the classroom.

(b) In making the appointments required under this section, the Governor and the Department shall ensure that the Council is representative of:

(1) All geographic areas of the State; and

(2) All levels of education, including early childhood learning, elementary school, middle school, and high school.

(c) (1) The term of a member appointed under this section is 3 years.

(2) The terms of members shall be staggered.

(3) At the end of a term, a member shall continue to serve until a successor is appointed.

(4) A member who is appointed after a term has begun shall serve for the remainder of the term or until a successor is appointed.

(d) The Governor or the Department shall appoint a successor in the event of a vacancy on the Council.

(e) From among the members of the Council, a chair shall be elected for a 3–year term.

(f) A member of the Council may not receive compensation but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 290 and 291 (Senate Bill 689/House Bill 745) of the Acts of 2012.

Article – Environment

9–206.

(j) With respect to land that is platted for subdivision, a person may not offer any of the land for sale or development or erect a permanent building on the land, unless there have been submitted to the Department:

(1) A plat of the subdivision;

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 9–206(j)(1) of the Environment Article was being amended.

Occurred: Chapter 149 (Senate Bill 236) of the Acts of 2012.

Article – Estates and Trusts

13–324.

This subtitle may be cited as the "Maryland Uniform Transfers to Minors Act".

DRAFTER'S NOTE:

Error: Function paragraphs of bills being cured incorrectly indicated that § 3–324, rather than § 13–324, of the Estates and Trusts Article was being repealed and reenacted without amendments.

Occurred: Chapters 68 and 69 (Senate Bill 396/House Bill 822) of the Acts of 2012.

Article – Natural Resources

8–704.1.

(a) Except as provided in subsection (b) of this section, the Department may not furnish to any person the name, address, or other identifying information about the owner of the registered vessel.

(b) This section does not prevent the Department from furnishing information under this section:

(1) To another governmental agency;

(2) If not requested for the purpose of preparing a mailing list, to a person requesting the information in connection with the compilation of statistical data;

(3) As to the owners of vessels registered under this subtitle, to a person whose request for the information is determined by the Department to be limited to, and necessary for, the protection of the ownership, safe operation, proper maintenance, or repair of the vessel; or

(4) To a financial institution, as defined in § 1–101(i) of the Financial Institutions Article, or its agents, employees, or contractors, requesting information under § 10–616(s) of the State Government Article.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured failed to indicate that § 8–704.1 of the Natural Resources Article was being amended.

Occurred: Chapter 657 (House Bill 269) of the Acts of 2012.

8–1808.2.

(d) A bona fide intrafamily transfer from a parcel of land shall be a subdivision of the parcel of land that is subject to local approval under Title 5 or Title 23 of the Land Use Article or under any subdivision control provisions of a charter county.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 8–1808(d), rather than § 8–1808.2(d), of the Natural Resources Article was being amended.

Occurred: Chapter 427 (House Bill 1130) of the Acts of 2012.

Chapter 485 of the Acts of 2009, as amended by Chapter 483 of the Acts of 2010 and Chapter 444 of the Acts of 2012

Section 1(3)

QB08.02 NORTH BRANCH CORRECTIONAL INSTITUTION
(Allegany County)

(A) Maryland Correctional Enterprises Upholstery and Re–upholstery Plant. Provide funds to design, construct, and equip a new Maryland Correctional Enterprises building at the North Branch Correctional Institution to house an Upholstery and Re–upholstery Plant 5,345,000

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that QB08–02 of Chapter 485 of the Acts of the General Assembly of 2009, as amended by Chapter 483 of the Acts of the General Assembly of 2010 was being amended.

Occurred: Chapter 444 (Senate Bill 151) of the Acts of 2012.

SECTION 2. AND BE IT FURTHER ENACTED, That the Drafter's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

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, April 9, 2013.

Chapter 43

(Senate Bill 284)

AN ACT concerning

Annual Corrective Bill

FOR the purpose of correcting certain errors and omissions in certain articles of the Annotated Code and certain uncodified laws; clarifying language; correcting certain obsolete references; reorganizing certain sections of the Annotated Code;

ratifying certain corrections made by the publishers of the Annotated Code; providing that this Act is not intended to affect any law other than to correct technical errors; providing for the correction of certain errors and obsolete provisions by the publishers of the Annotated Code; providing for the effect and construction of certain provisions of this Act; and making this Act an emergency measure.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 6–201(p)(3)(ii)2. and (iii)2., 7–101(p–1)(11)(i)2., 8–216(a)(5), (6), and (7), 9–217(d) and (e)(5), and 10–103(b)(9)(iii) and (iv)3.
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 41 – Governor – Executive and Administrative Departments
Section 18–202
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 95 – Treasurer
Section 22F(c)(3) and (d)(2)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 5–207(h)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
The subtitle designation "Subtitle 2. Superintendent" immediately preceding § 13–201; and Section 17–405 and 17–410(b)(2)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 13–201
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation

Section 12–301(f)(1), 16–222(a), and 16.5–216(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 4–104(a)(4)
Annotated Code of Maryland
(2002 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 4A–606(3)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 11–504(h)(3)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–304(c)(2)(iv), 3–306(c)(2)(iv), 3–907, 5–621(a)(2), and 10–119(g)(4) and (5)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 4–115(c)(1)(iii), 11–202(a)(3), and 18–1502(c) and (d)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 11–203(d)(2)(iii)2.B.
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)
(As enacted by Chapter 596 of the Acts of the General Assembly of 2012)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 13–243(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 5–203.1(b)(1) and (c)(5)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)
(As enacted by Chapter 142 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–206(c), (f), (g)(1)(iv), and (k)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)
(As enacted by Chapter 149 of the Acts of the General Assembly of 2012)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1605.2(h)(2)(i)1.D. and E. and 14–508(b)(2)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–321(a)(3)(iii), 5–339(a)(3)(v); the part designation "Part II. Adoption Proceeding" immediately preceding Section 5–3B–12; the part designation "Part IV. Prohibited Act" immediately preceding Section 5–3B–32; 14–305(3) and 14–307(a)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–3B–12 and 5–3B–32(a)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–901(f)(1), 18–1001(4), 19–1801(2)(i), 20–111(b), and 21–2A–01(g)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–6A–05(c)(3), 9–314.2(b)(2), 12–407(e), and 14–5B–05(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 31–103(a)(2)(i) and 31–113(m)(3)(i)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–206(b)(5)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Land Use
Section 1–501, 1–507(a), 1–509(a)(1), and 5–104(e)(1)
Annotated Code of Maryland
(2012 Volume)
(As enacted by Chapter 149 of the Acts of the General Assembly of 2012)

BY repealing and reenacting, with amendments,
Article – Land Use
Section 18–207(d)(2)
Annotated Code of Maryland
(2012 Volume)
(As enacted by Chapter 426 of the Acts of the General Assembly of 2012)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–1017(c) and 4–11B–01(b)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 10–104(d)(2)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–125(f)(4)(i)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement

Section 5A–303(a)(16) and (17) and (b)(1)(iii), 6–222(a)(5), 12–111(a)(3)(ii), and 12–301(b)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–06(d) and 10–617(b)(4)(ii)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 1–305
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–202(b) and 4–105(a–1)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)
(As enacted by Chapter 603 of the Acts of the General Assembly of 2012)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 7–208(a)(4) and 12–117(c)(5)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 8–701(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 11–127.2(a)(2)(ii)1.A. and (b)(2)(i)1., 16–122(a)(1)(i)3., and 26–404(d)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–205.1(a)(1)
Annotated Code of Maryland
(2012 Replacement Volume)

(As enacted by Chapters 4 and 5 of the Acts of the General Assembly of 2001)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 24–111.3(b)(3)
Annotated Code of Maryland
(2012 Replacement Volume)
(As enacted by Chapters 375 and 376 of the Acts of the General Assembly of 2012)

BY repealing and reenacting, with amendments,
Chapter 545 of the Acts of the General Assembly of 2012
Section 3

BY repealing and reenacting, with amendments,
Chapter 570 of the Acts of the General Assembly of 2012
Section 7(e)(2)(ii)1.

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.

(p) (3) (ii) 2. To qualify for a license under **[**sub–subparagraph 1 of this paragraph**]** **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH**, the applicant's establishment shall:

A. Be licensed by the county to operate as a bed and breakfast establishment; and

B. Have a maximum of 3 rooms, excluding the resident management quarters, which the public, for consideration, may use for sleeping accommodations for a specified period of time.

(iii) 2. To qualify for a license under **[**sub–subparagraph 1 of this paragraph**]** **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH**, the applicant's establishment shall:

A. Be licensed by the county to operate as a country inn;

B. Have a maximum of 10 rooms, excluding the resident management quarters, which the public, for consideration, may use for sleeping accommodations for a specified period of time; and

C. Have a kitchen facility for the guests that is separate from the kitchen facility for the resident management quarters.

DRAFTER'S NOTE:

Error: Stylistic errors in Article 2B, § 6–201(p)(3)(ii)2 and (iii)2.

Occurred: Ch. 22, Acts of 1992.

7–101.

(p–1) (11) (i) The Board of License Commissioners may issue a refillable container permit to a holder of any class of alcoholic beverages license issued by the Board of License Commissioners except a Class C license and a Class GC license:

2. At no cost to the **[**B–SBW**]** license holder.

DRAFTER'S NOTE:

Error: Obsolete reference in Article 2B, § 7–101(p–1)(11)(i)2.

Occurred: As a result of Ch. 412, Acts of 2012, which authorized sales in refillable containers by most retail alcoholic beverages licensees rather than only Class B–SBW licensees. Correction recommended by the Attorney General in the Bill Review Letter for H.B. 1047 (Ch. 412) of 2012 (footnote 5), dated April 24, 2012.

8–216.

(a) (5) The City of Takoma Park is excepted from the provisions of paragraph (2) of this subsection **[**if subsection (d) of this section becomes effective**]**.

(6) The town of Laytonsville is excepted from the provisions of paragraph (2) of this subsection **[**if subsection (e) of this section becomes effective**]**.

(7) Damascus (12th election district) is excepted from the provisions of paragraph (2) of this subsection **[**if subsection (f) of this section becomes effective**]**.

DRAFTER'S NOTE:

Error: Obsolete language in Article 2B, § 8–216(a)(5), (6), and (7), which exempted Takoma Park, Laytonsville, and Damascus, respectively, from a specified provision of law, contingent on the taking effect of provisions requiring approval by a majority of the votes cast in various referenda.

Occurred: As a result of the general elections on November 6, 1984 (affecting Takoma Park), November 8, 1988 (affecting Laytonsville), and November 6, 2012

(affecting Damascus). In each case, a majority of the votes cast was "For" the referendum question, and the contingent provisions thereby took effect.

9–217.

(d) This section does not apply to a license issued under the provisions of **[**§ 6–201(r)(2)**] § 6–201(R)(3)**, **[**(5)**](6)**, (15), or (17), or § 7–101 of this article.

(e) (5) This subsection does not apply to any license issued under **[**§ 6–201(r)(2)**] § 6–201(R)(3)**, (4), **[**(5)**](6)**, (15), (16), or (18) or § 7–101 of this article.

DRAFTER'S NOTE:

Error: Erroneous cross–references in Article 2B, § 9–217(d) and (e)(5).

Occurred: As a result of Ch. 5, Acts of 1993.

10–103.

(b) (9) (iii) In Somerset and Wicomico counties, a statement that the applicant consents to the Board investigating the applicant's criminal record; **[**and**]**

(iv) 3. In Charles County, a signed statement by the applicant that the applicant has not been convicted of a felony, or, except for an applicant for a Class B beer, wine and liquor (BLX) luxury restaurant license, if the application is being made for the use of a corporation, that the applicant and none of the stockholders of that corporation have been convicted of a felony; **AND**

DRAFTER'S NOTE:

Error: Extraneous conjunction in Article 2B, § 10–103(b)(9)(iii) and omitted conjunction in (iv)3.

Occurred: As a result of Ch. 302, Acts of 2006.

Article 41 – Governor – Executive and Administrative Departments

[18–202.

(a) The Secretary of Agriculture shall study the effectiveness of an ethanol and gasoline mixture, known as gasohol, as an alternative fuel for motor vehicles. The Secretary of Agriculture shall initiate a 1–year program of tests using gasohol for fuel in eight presently owned State motor vehicles according to the provisions of this section. The purposes of the gasohol testing program are:

(1) To evaluate the cost–effectiveness of gasohol as an alternative fuel for motor vehicles;

(2) To evaluate the performance of gasohol as an alternative fuel for motor vehicles;

(3) To compare the performance of gasohol in a new motor vehicle with its performance in a used motor vehicle;

(4) To determine the negative effects, if any, from using gasohol in a motor vehicle for an extended period of time; and

(5) To investigate and review the feasibility of establishing a local source of supply for methanol or ethanol utilizing State agricultural produce.

(b) The motor vehicles used in the gasohol testing program shall consist of the following:

(1) Four motor vehicles currently in use with the Department of General Services which have been in use for 1 year before the tests begin; and

(2) Four new motor vehicles of the Department of General Services may be used for the test.

(c) The costs of the gasohol testing program shall be paid from funds appropriated in the State budget.

(d) The gasohol testing program shall include, but is not limited to, at least one member from each of the following:

(1) The Department of Agriculture;

(2) The Department of General Services;

(3) The Department of the Environment; and

(4) The Department of Natural Resources.

(e) The gasohol testing program shall conduct the testing program according to the following procedures:

(1) Locate gasohol suppliers and contract with a supplier, according to the procurement procedures of this subtitle, to provide a sufficient amount of gasohol for the testing program;

(2) The test motor vehicles shall be operated by Department of General Services personnel in the Department's routine operations;

(3) It shall provide for regular evaluation of the test vehicles during the course of the testing program;

(4) The test vehicles shall be operated throughout the State to provide as many diverse operating conditions as are practicable;

(5) It shall prepare a final report of the testing program which includes:

(i) A critical evaluation of the performance of gasohol;

(ii) A breakdown of the costs incurred in the operation of the test vehicles using gasohol; and

(iii) Recommendations for future use of gasohol in State motor vehicles; and

(6) The gasohol testing program shall be submitted no later than January 1, 1980 to the Legislative Policy Committee.

(f) The Legislative Policy Committee shall make a report of its recommendations to the Governor and to the General Assembly no later than January 31, 1980.**]**

DRAFTER'S NOTE:

Error: Obsolete language in Article 41, § 18–202.

Occurred: As a result of the fact that the study required by Art. 41, § 18–202 was required to be completed by January 31, 1980. The study was concluded and the report of the Maryland Gasohol Testing Program was included in the Gasohol Study Commission's final report in January, 1981.

Article 95 – Treasurer

22F.

(c) (3) If the governing body of a local government unit amends its local investment policy, the local government **UNIT** shall submit its new policy to the State Treasurer consistent with the provisions of paragraph (2) of this subsection.

(d) (2) If the local government unit amends its local debt policy, the local government **UNIT** shall submit its revised policy to the State Treasurer consistent with the provisions of paragraph (1) of this subsection.

DRAFTER'S NOTE:

Error: Omitted word in Article 95, § 22F(c)(3) and (d)(2).

Occurred: Ch. 143, Acts of 1995; Ch. 693, Acts of 2009.

Article – Agriculture

5–207.

(h) **(1)** A person who sells or distributes a restricted use pesticide shall hold a dealer permit from the Secretary.

[(1)**] (2)** Each application for a dealer permit shall be accompanied by a $25 permit fee.

[(2)**] (3)** Each dealer permit shall be renewed annually upon payment of the permit fee.

DRAFTER'S NOTE:

Error: Tabulation error in § 5–207(h) of the Agriculture Article.

Occurred: Chs. 301 and 302, Acts of 1987.

Article – Business Occupations and Professions

Subtitle 2. **[**Superintendent**] SECRETARY**.

13–201.

Subject to the provisions of this title, the Secretary is responsible for the licensing of private detective agencies and the regulation of those persons who provide private detective services in the State.

DRAFTER'S NOTE:

Error: Obsolete language in the subtitle designation immediately preceding § 13–201 of the Business Occupations and Professions Article.

Occurred: As a result of Chs. 165 and 166, Acts of 1994, which created the Department of State Police but failed to amend the subtitle designation to reflect that the Secretary is the head of that Department.

17–405.

A real estate broker shall include in each sales contract that is provided by the real estate broker a written notice to the buyer that the buyer is protected by the Guaranty Fund in an amount not exceeding **[**$25,000**] $50,000**.

DRAFTER'S NOTE:

Error: Obsolete language in § 17–405 of the Business Occupations and Professions Article.

Occurred: As a result of Ch. 184, Acts of 2012, which increased the maximum amount that may be recovered from the Real Estate Guaranty Fund from $25,000 to $50,000.

17–410.

(b) (2) For any claim, the Commission may not order a payment by the Guaranty Fund of more than **[**$25,000**] $50,000**.

DRAFTER'S NOTE:

Error: Obsolete language in § 17–410(b)(2) of the Business Occupations and Professions Article.

Occurred: As a result of Ch. 184, Acts of 2012, which increased the maximum amount that may be recovered from the Real Estate Guaranty Fund from $25,000 to $50,000.

Article – Business Regulation

12–301.

(f) (1) When a dealer places items into **[**their**] THE DEALER'S** inventory, the dealer shall tag each item individually with a number that corresponds to the transaction under which it was acquired. However, items acquired in a matching set may be tagged as a set.

DRAFTER'S NOTE:

Error: Grammatical error in § 12–301(f)(1) of the Business Regulation Article.

Occurred: Chs. 199 and 200, Acts of 2012. Correction suggested by the Attorney General in the Bill Review Letter for S.B. 246 (Ch. 199)/H.B. 206 (Ch. 200) of 2012 (footnote 2), dated April 23, 2012.

16–222.

(a) A person may not ship, import, or sell into or within this State any brand of cigarette unless that person:

(1) **(I)** is the owner of the brand;

[(2)**]** **(II)** is the United States importer for the brand; or

[(3)**]** **(III)** is a designated agent in Maryland of:

[(i)**]** **1.** the owner of the brand; or

[(ii)**]** **2.** the United States importer of the brand; and

[(4)**]** **(2)** holds any license required by this subtitle.

DRAFTER'S NOTE:

Error: Tabulation error in § 16–222(a) of the Business Regulation Article.

Occurred: Ch. 262, Acts of 1999. Correction based on advice of the Office of the Attorney General, Counsel to the Comptroller of Maryland.

16.5–216.

(a) A person may not ship, import, or sell into or within this State any other tobacco products unless that person:

(1) **(I)** is the owner of the brand;

[(2)**]** **(II)** is the United States importer for the brand; or

[(3)**]** **(III)** is a designated agent in Maryland of:

[(i)**]** **1.** the owner of the brand; or

[(ii)**]** **2.** the United States importer of the brand; and

[(4)**]** **(2)** holds any license required by this subtitle.

DRAFTER'S NOTE:

Error: Tabulation error in § 16.5–216(a) of the Business Regulation Article.

Occurred: Ch. 388, Acts of 2010. Correction based on advice of the Office of the Attorney General, Counsel to the Comptroller of Maryland.

Article – Commercial Law

4–104.

(a) In this title, unless the context otherwise requires:

(4) **[**"Clearing–house"**] "CLEARING HOUSE"** means an association of banks or other payors regularly clearing items;

DRAFTER'S NOTE:

Error: Extraneous hyphen in § 4–104(a)(4) of the Commercial Law Article.

Occurred: Ch. 91, Acts of 1996.

Article – Corporations and Associations

4A–606.

Unless otherwise agreed, a person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

(3) The person:

(i) Makes an assignment for the benefit of creditors;

(ii) Institutes a voluntary proceeding with respect to the person under the federal bankruptcy code;

(iii) Is adjudged bankrupt or insolvent or has entered against the person an order for relief in any bankruptcy or insolvency proceeding;

(iv) Files a petition or answer seeking for that person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(v) Seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the member or of all or any substantial part of the person's properties; or

(vi) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the person in any proceeding described in this **[**subsection**] ITEM**;

DRAFTER'S NOTE:

Error: Stylistic error in § 4A–606(3) of the Corporations and Associations Article.

Occurred: Ch. 536, Acts of 1992.

Article – Courts and Judicial Proceedings

11–504.

(h) (3) The interest of an alternate payee in a plan described **[**in subsection (h)(1)**]** **UNDER PARAGRAPH (1)** of this **[**section**]** **SUBSECTION** shall be exempt from any and all claims of any creditor of the alternate payee, except claims by the Department of Health and Mental Hygiene.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–504(h)(3) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 613, Acts of 1988.

Article – Criminal Law

3–304.

(c) (2) (iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum **SENTENCE** shall not apply.

DRAFTER'S NOTE:

Error: Omitted word in § 3–304(c)(2)(iv) of the Criminal Law Article.

Occurred: Ch. 4, Acts of the Special Session of 2006.

3–306.

(c) (2) (iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum **SENTENCE** shall not apply.

DRAFTER'S NOTE:

Error: Omitted word in § 3–306(c)(2)(iv) of the Criminal Law Article.

Occurred: Ch. 4, Acts of the Special Session of 2006.

3–907.

(a) (1) In this section the following words have the meanings indicated.

(2) "Protected individual" means an individual who buys, rents, or borrows a **[**video tape**]** **VIDEOTAPE**, video disk, or film from a **[**video tape**]** **VIDEOTAPE** distributor.

(3) "Publish" means to distribute to a person other than the protected individual or an agent of the protected individual.

(4) **[**"Video tape**]** **"VIDEOTAPE** distributor" means a retail establishment operating for profit that sells, rents, or loans **[**video tapes**]** **VIDEOTAPES**, video disks, or films.

(b) Except as provided in subsection (d) of this section, a **[**video tape**]** **VIDEOTAPE** distributor, or an agent or employee of a **[**video tape**]** **VIDEOTAPE** distributor, may not publish the following information relating to sales, rentals, or loans of **[**video tapes**]** **VIDEOTAPES**, video disks, or films to a protected individual:

(1) any numerical designation used by the **[**video tape**]** **VIDEOTAPE** distributor to identify the protected individual; or

(2) any listing of **[**video tapes**]** **VIDEOTAPES**, video disks, or films bought, rented, or borrowed by the protected individual from the **[**video tape**]** **VIDEOTAPE** distributor.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months for all violations or a fine not exceeding $500 for each violation or both.

(d) This section does not prohibit the distribution of information protected under subsection (b) of this section to:

(1) a person designated by the **[**video tape**]** **VIDEOTAPE** distributor and authorized by the protected individual before distribution to receive the information;

(2) any appropriately authorized law enforcement personnel; or

(3) a collection agency used or person designated by the **[**video tape**]** **VIDEOTAPE** distributor to collect unreturned rental **[**video tapes**]** **VIDEOTAPES**, video disks, or films, or an amount equal to their value.

DRAFTER'S NOTE:

Error: Stylistic errors in § 3–907 of the Criminal Law Article.

Occurred: Ch. 26, Acts of 2002.

5–621.

(a) (2) "Drug trafficking crime" means a felony or a conspiracy to commit a felony involving the possession, distribution, manufacture, or importation of a controlled dangerous substance under §§ 5–602 through 5–609 and 5–614 of this **[**article**]** **SUBTITLE**.

DRAFTER'S NOTE:

Error: Stylistic error in § 5–621(a)(2) of the Criminal Law Article.

Occurred: Ch. 26, Acts of 2002.

10–119.

(g) In any proceeding for a Code violation:

(4) the defendant is entitled to be represented by counsel of the defendant's choice and at the expense of the defendant; **[**and**]**

(5) the defendant may enter a plea of guilty or not guilty, and the verdict of the court in the case shall be:

(i) guilty of a Code violation; **OR**

(ii) not guilty of a Code violation; **[**or**]** **AND**

[(iii)**]** **(6)** before rendering judgment, the court may place the defendant on probation in the same manner and to the same extent as is allowed by law in the trial of a criminal case.

DRAFTER'S NOTE:

Error: Misplaced conjunctions in § 10–119(g)(4) and (5) of the Criminal Law Article.

Occurred: Ch. 26, Acts of 2002.

Article – Education

4–115.

(c) (1) (iii) 1. If the county commissioners or county council provide the required notice to the county board under subparagraph (ii)1 of this paragraph or

a public charter school does not need the school site or building under § 9–111 of this article, the land, school site, or building shall be transferred by the county board to the county commissioners or county council and may be used, sold, leased, or otherwise disposed of, except by gift, by the county commissioners or county **[**council; or**]** **COUNCIL.**

2. If the county commissioners or county council provide the required notice to the county board under subparagraph (ii)2 of this paragraph, the county board shall comply with the provisions of § 9–111 of this article.

DRAFTER'S NOTE:

Error: Incorrect punctuation in § 4–115(c)(1)(iii) of the Education Article.

Occurred: Ch. 502, Acts of 2011.

11–202.

(a) (3) Except as provided in § 11–202.1 of this subtitle, but notwithstanding any other provision of law, an institution **REQUIRED TO REGISTER UNDER PARAGRAPH (2) OF THIS SUBSECTION** that is not accredited by an accrediting body recognized and approved by the United States Department of Education may not commence or continue to operate, do business, or function in the State.

DRAFTER'S NOTE:

Error: Omitted reference in § 11–202(a)(3) of the Education Article.

Occurred: Chs. 595 and 596, Acts of 2012. Correction suggested by the Attorney General in the Bill Review Letter for S.B. 843 (Ch. 595)/H.B. 1223 (Ch. 596) of 2012, dated April 27, 2012.

11–203.

(d) (2) (iii) 2. B. Notwithstanding **[**subsubparagraph**]** **SUBSUBSUBPARAGRAPH** A of this subsubparagraph, an institution shall be required to contribute to the fund following a claim against the fund being sustained on behalf of a student participating in a fully online distance education program offered in the State by the institution.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–203(d)(2)(iii)2B of the Education Article.

Occurred: Ch. 596, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Supplement of the Education Article is ratified by this Act.

18–1502.

(c) Subject to the provisions of subsection (b) of this section, the Office shall assist in the repayment of the amount of any higher education loan owed by a public school teacher in the State who:

(1) Has taught in Maryland for at least 2 years:

(i) In science, technology, engineering, or math subjects; or

(ii) In a school in which at least 75% of the students are enrolled in the free and reduced lunch program in the State **[**for 2 years**]**; and

(2) Has received the highest performance evaluation rating for the most recent year available in the county in which the teacher taught **[**(the grant to be known as the Nancy Grasmick Teacher Award)**]**.

(d) **(1) A GRANT AWARDED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE KNOWN AS THE NANCY GRASMICK TEACHER AWARD.**

(2) A recipient of a Nancy Grasmick Teacher Award shall be known as a Nancy Grasmick Teacher Scholar.

DRAFTER'S NOTE:

Error: Extraneous language in § 18–1502(c)(1)(ii) and misplaced language in § 18–1502(c)(2) of the Education Article.

Occurred: Chs. 495 and 496, Acts of 2012. Corrections suggested by the Attorney General in the Bill Review Letter for S.B. 364 (Ch. 495)/H.B. 613 (Ch. 496) of 2012 (footnote 13), dated April 19, 2012.

Article – Election Law

13–243.

(a) (1) In this section the following words have the meanings indicated.

(2) **[**"Membership entity" means an organization that collects dues from its members.

(3)**]** "Affiliated political action committee" means a political action committee affiliated with a membership entity.

(3) "MEMBERSHIP ENTITY" MEANS AN ORGANIZATION THAT COLLECTS DUES FROM ITS MEMBERS.

DRAFTER'S NOTE:

Error: Stylistic error (failure to codify definitions in alphabetical order) in § 13–243(a) of the Election Law Article.

Occurred: Ch. 291, Acts of 2002.

Article – Environment

5–203.1.

(b) (1) Except as provided under paragraphs (2) and (3) of this subsection, all applications for wetlands and waterways authorizations issued by the Department under **[**§§ 5–503, 5–906,**] §§ 5–503 AND 5–906 OF THIS TITLE AND §§** 16–202, 16–302, and 16–307 of this article or wetlands licenses issued by the Board of Public Works under § 16–202 of this article shall be accompanied by an application fee as follows:

(i) For an application for a minor project or general permit..... $750;

(ii) For an application for a minor modification..... $250;

(iii) For an application for a major project with a proposed permanent impact of:

1. Less than 1/4 acre..... $1,500;

2. At least 1/4 acre, but less than 1/2 acre..... $3,000;

3. At least 1/2 acre, but less than 3/4 acre..... $4,500;

4. At least 3/4 acre, but less than 1 acre..... $6,000; and

5. 1 acre or more…… the impact area in acres multiplied by $7,500; and

(iv) For an application for a major modification……$1,500.

(c) (5) In accordance with subsection (e) of this section, the Department shall use the Wetlands and Waterways Program Fund for activities related to:

(i) The issuance of authorizations by the Department under **[**§§ 5–503, 5–906,**] §§ 5–503 AND 5–906 OF THIS TITLE AND §§** 16–202, 16–302, and 16–307 of this article or the issuance of wetlands licenses by the Board of Public Works under § 16–202 of this article;

(ii) The management, conservation, protection, and preservation of the State's wetlands and waterways resources; and

(iii) Program development associated with Title 5 and Title 16 of this article, as provided by the State budget.

DRAFTER'S NOTE:

Error: Stylistic error in § 5–203.1(b)(1) and (c)(5) of the Environment Article.

Occurred: Ch. 142, Acts of 2008. Correction by the publisher of the Annotated Code in the 2012 Supplement of the Environment Article is ratified by this Act.

9–206.

(c) (1) Subsections (f) through **[**(k)**] (I)** and subsection **[**(n)**] (L)** of this section do not apply to covenants, restrictions, conditions, or conservation easements that were created or entered into at any time under § 2–118 of the Real Property Article for the benefit of, or held by, a State agency or a local jurisdiction for the purpose of conserving natural resources or agricultural land.

(2) Subsections (f) through **[**(k)**] (I)** of this section may not be construed as granting any additional rights in covenants, restrictions, conditions, or conservation easements that were created or entered into at any time under § 2–118 of the Real Property Article for the benefit of, or held by, a State agency or a local jurisdiction for the purpose of conserving natural resources or agricultural land.

(f) On or after December 31, 2012, a local jurisdiction:

(1) May not authorize a residential major subdivision served by on–site sewage disposal systems, community sewerage systems, or shared systems until the local jurisdiction adopts the growth tiers in accordance with **[**Article 66B, § 1.05 of the Code**] § 5–104 OF THE LAND USE ARTICLE**; or

(2) If the local jurisdiction has not adopted the growth tiers in accordance with **[**Article 66B, § 1.05 of the Code**] § 5–104 OF THE LAND USE ARTICLE**, may authorize:

(i) A residential minor subdivision served by on–site sewage disposal systems if the residential subdivision otherwise meets the requirements of this title; or

(ii) A major or minor subdivision served by public sewer in a Tier I area.

(g) (1) Except as provided in subsection (f)(2) of this section and subject to subsection (i) of this section, a local jurisdiction may authorize a residential subdivision plat only if:

(iv) The subdivision is a major subdivision served by on–site sewage disposal systems, a community system, or a shared facility located in a Tier III area **AND** has been recommended by the local planning board in accordance with § 5–104 of the Land Use Article.

(k) On the basis of information provided under subsection **[**(i)**] (J)** of this section, the Department may order:

(1) Preparation and submission, within any time the Department sets, of any plans and specifications that the Department considers necessary to provide for adequate water supply and sewerage service to the subdivision; and

(2) Installation, within any time the Department sets, of the whole or any part of a water supply system or sewerage system for the subdivision that:

(i) Conforms to the plans submitted to the Department and to any revision of the plans that the Department approves; and

(ii) In the judgment of the Department, is needed for the public health.

DRAFTER'S NOTE:

Error: Erroneous internal references in § 9–206(c) and (k), obsolete cross–reference in § 9–206(f), and omitted conjunction in § 9–206(g)(1)(iv) of the Environment Article.

Occurred: Ch. 149, Acts of 2012. Correction recommended by the Attorney General in the Bill Review Letter for S.B. 236 (Ch. 149) of 2012 (footnote 10), dated April 27, 2012. Correction by the publisher of the Annotated Code in the 2012 Supplement of the Environment Article is ratified by this Act.

9–1605.2.

(h) (2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraph (3) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

D. The cost, up to the sum of the costs authorized under item **[**1B**] B** of this item for each individual system, of replacing multiple onsite sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; or

E. The cost, up to the sum of the costs authorized under item **[**1C**] C** of this item for each individual system, of connecting a property using an onsite sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal level treatment; and

DRAFTER'S NOTE:

Error: Stylistic errors in § 9–1605.2(h)(2)(i)1D and E of the Environment Article.

Occurred: Chs. 225 and 226, Acts of 2008, and Chs. 492 and 493, Acts of 2011.

14–508.

(b) (2) Procedural regulations adopted under this subsection shall:

(i) Provide for notice to interested persons of any decision to issue or deny a permit; **AND**

(ii) Permit a person to file a petition for judicial review in accordance with the provisions of § 5–204 of this article.

DRAFTER'S NOTE:

Error: Omitted conjunction in § 14–508(b)(2) of the Environment Article.

Occurred: Ch. 651, Acts of 2009.

Article – Family Law

5–321.

(a) (3) Consent of a party to guardianship is not valid unless:

(iii) the party has received written notice or **[**on the record**]** **ON–THE–RECORD** notice before a judge of:

1. the revocation provisions in subsections (a)(2) and (c)(1) of this section;

2. the search rights of adoptees and parents under § 5–359 of this subtitle and the search rights of adoptees, parents, and siblings under Subtitle 4B of this title; and

3. the right to file a disclosure veto under § 5–359 of this subtitle;

DRAFTER'S NOTE:

Error: Omitted hyphens in § 5–321(a)(3)(iii) of the Family Law Article.

Occurred: Ch. 464, Acts of 2005.

5–339.

(a) (3) Consent of a party to an adoption under this Part III of this subtitle is not valid unless:

(v) the party has received written notice or **[**on the record**]** **ON–THE–RECORD** notice of:

1. the revocation provisions in subsections (a)(2) and (b)(1) of this section;

2. the search rights of adoptees and parents under § 5–359 of this subtitle and the search rights of adoptees, parents, and siblings under Subtitle 4B of this title; and

3. the right to file a disclosure veto under § 5–359 of this subtitle; and

DRAFTER'S NOTE:

Error: Omitted hyphens in § 5–339(a)(3)(v) of the Family Law Article.

Occurred: Ch. 464, Acts of 2005.

Part II. Adoption **[**Proceeding**]** **PROCEEDINGS**.

5–3B–12.

Except for a child being placed for adoption with a relative of the child, by blood or marriage within 4 degrees of affinity or consanguinity under the civil law rule, a parent or grandparent may place a child for adoption only if:

(1) a petition for adoption is filed in court; and

(2) the court, by order, sanctions the placement pending final action on the petition.

DRAFTER'S NOTE:

Error: Incorrect word usage in the part designation "Part II. Adoption Proceeding," immediately preceding § 5–3B–12 of the Family Law Article.

Occurred: Ch. 464, Acts of 2005.

Part IV. Prohibited **[**Act**]** **ACTS**.

5–3B–32.

(a) Except as otherwise provided by law, a person may not charge or receive, from or for a parent or prospective adoptive parent, any compensation for a service in connection with:

(1) placement of an individual to live with a preadoptive family; or

(2) an agreement for custody in contemplation of adoption.

DRAFTER'S NOTE:

Error: Incorrect word usage in the part designation "Part IV. Prohibited Act," immediately preceding § 5–3B–32 of the Family Law Article.

Occurred: Ch. 464, Acts of 2005.

14–305.

Based on the investigation under this subtitle, the local department shall:

(3) report to the appropriate local law enforcement agency any incident of abuse, neglect, or exploitation of an alleged vulnerable adult where the possibility of a crime being committed against the alleged vulnerable **[**person**]** **ADULT** is indicated by information provided in the initial report to the local department or by information obtained in the course of investigation; and

DRAFTER'S NOTE:

Error: Misnomer in § 14–305(3) of the Family Law Article.

Occurred: Ch. 243, Acts of 1987. Note: the term "vulnerable adult" is defined for Title 14 of the Family Law Article in § 14–101 of that article.

14–307.

(a) If after the investigation under this subtitle the director determines that the individual requires protective services, with the individual's **[**consent**]** **CONSENT,** the director shall provide the services.

DRAFTER'S NOTE:

Error: Omitted comma in § 14–307(a) of the Family Law Article.

Occurred: Ch. 148, Acts of 1985.

Article – Health – General

18–901.

(f) (1) "Health care practitioner" has the meaning stated in **[**§ 19–114(f)**]** **§ 19–114(E)** of this article.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 18–901(f)(1) of the Health – General Article.

Occurred: As a result of Ch. 565, Acts of 2001.

18–1001.

As funds are available, the Department shall:

(4) Solicit funding from the private sector and units of federal, **[**state**]** **STATE**, and local government for hepatitis B virus and hepatitis C virus outreach;

DRAFTER'S NOTE:

Error: Capitalization error in § 18–1001(4) of the Health – General Article.

Occurred: Chs. 249 and 457, Acts of 2006.

19–1801.

In this subtitle:

(2) "Assisted living program" does not include:

(i) A nursing home, as defined under **[**§ 19–301**] § 19–1401** of this title;

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 19–1801(2)(i) of the Health – General Article.

Occurred: Ch. 147, Acts of 1996.

20–111.

(b) A person may not use sperm or eggs from a known donor **AFTER THE DONOR'S DEATH** for the purpose of assisted reproduction, if:

(1) The person knows that the known donor died and did not give consent for the posthumous use of the sperm or eggs; or

(2) The donor or the individual who intends to become a parent through the use of the sperm or eggs receives any remuneration for the donation or use of the sperm or eggs.

DRAFTER'S NOTE:

Error: Omitted language in § 20–111(b) of the Health – General Article.

Occurred: Ch. 649, Acts of 2011, as a result of the incorrect merging of two separately adopted amendments into the bill in preparing the third reader version of the bill. Correction suggested by the Attorney General in the Bill Review Letter for H.B. 101(Ch. 649) of 2012, dated May 8, 2012, as being necessary to accurately express the clear legislative intent.

21–2A–01.

(g) "Opioid maintenance program" means a program that:

(1) Is **[**licensed**] CERTIFIED** by the State under § 8–404 of this article;

DRAFTER'S NOTE:

Error: Incorrect word usage in § 21–2A–01(g)(1) of the Health – General Article.

Occurred: Ch. 166, Acts of 2011.

Article – Health Occupations

8–6A–05.

(c) (3) An applicant for certification as a certified medicine aide, in addition to the requirements under **PARAGRAPH (1) OF THIS** subsection **[**(c)(1) of this section**]**, shall submit an additional application to that effect to the Board on the form that the Board requires.

DRAFTER'S NOTE:

Error: Stylistic error in § 8–6A–05(c)(3) of the Health Occupations Article.

Occurred: Ch. 393, Acts of 1998, which originally enacted the error in § 8–6A–05(c)(2) of the Health Occupations Article.

9–314.2.

(b) (2) A nursing home or nursing home management firm may hire or retain as a consultant an individual who **SURRENDERED A LICENSE OR** had a license revoked under this subtitle, but had the license restored by the Board, and who is now a licensee in good standing under the provisions of this title.

DRAFTER'S NOTE:

Error: Omitted language in § 9–314.2(b)(2) of the Health Occupations Article.

Occurred: Chs. 726 and 727, Acts of 2012. Correction recommended by the Attorney General in a follow–up Bill Review Letter for S.B. 737 (Ch. 726)/H.B. 1118 (Ch. 727) of 2012, dated May 22, 2012.

12–407.

(e) If application for renewal is not made on or before **[**December 1**]** **MAY 1**, the pharmacy permit shall expire on the last day of its term and the Board may not reinstate the pharmacy permit unless the applicant:

(1) Provides reason, sufficient to the Board, for the failure to file within the time required; and

(2) Pays, in addition to the renewal fee, a late fee set by the Board.

DRAFTER'S NOTE:

Error: Erroneous date in § 12–407(e) of the Health Occupations Article.

Occurred: Ch. 658, Acts of 2012. Ch. 658, sunset legislation continuing the State Board of Pharmacy, altered the date for the expiration of pharmacy permits and the date by which notice of expiration must be sent to permit holders. However, Ch. 658 failed to make a conforming change to the date by which applications for permit renewal must be made. This conforming correction is consistent with the intent of the other date changes. Correction suggested by the State Board of Pharmacy.

14–5B–05.

(a) There is a Radiation Therapy, Radiography, Nuclear Medicine Technology **[**Advisory**]**, and Radiology Assistance **ADVISORY** Committee within the Board.

DRAFTER'S NOTE:

Error: Misnomer in § 14–5B–05(a) of the Health Occupations Article.

Occurred: Ch. 328, Acts of 2008.

Article – Insurance

31–103.

(a) The Exchange is subject to:

(2) the following provisions of the State Government Article:

(i) Title 10, Subtitle 1 **[**(Governmental Procedures)**] (ADMINISTRATIVE PROCEDURE ACT – REGULATIONS)**;

DRAFTER'S NOTE:

Error: Erroneous subtitle designation in § 31–103(a)(2)(i) of the Insurance Article.

Occurred: Chs. 1 and 2, Acts of 2011.

31–113.

(m) (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.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 31–113(m)(3)(i) of the Insurance Article.

Occurred: Ch. 152, Acts of 2012.

Article – Labor and Employment

9–206.

(b) An individual who otherwise would be a covered employee under this section may elect to be exempt from coverage if:

(5) the individual:

(i) is a member of a limited liability company, as defined in § **[**4A–101(l)**] 4A–101(K)** of the Corporations and Associations Article; and

(ii) owns at least 20% of the outstanding interests in profits of the limited liability company.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 9–206(b)(5) of the Labor and Employment Article.

Occurred: As a result of Ch. 611, Acts of 2010.

Article – Land Use

1–501.

[(a)**]** In this **[**subtitle the following words have the meanings indicated.

(b) "Planning**] SUBTITLE, "PLANNING** board"**:**

(1) means a planning board established under this **[**article.**] ARTICLE; AND**

[(c)**] (2) [**"Planning board"**]** includes a planning commission or board established under **DIVISION II OF THIS ARTICLE OR** Article 25A **[**or Article 28**]** of the Code.

DRAFTER'S NOTE:

Error: Stylistic error (tabulation) and erroneous cross–reference in § 1–501 of the Land Use Article.

Occurred: Ch. 149, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Volume of the Land Use Article is ratified by this Act.

1–507.

(a) If the Department of Planning comments under **[**§ 5–105**] § 1–505** of this subtitle on any of the tiers or on an area within one of the tiers, the local legislative body or the planning board shall hold at least one public hearing on the comments by the Department of Planning.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 1–507(a) of the Land Use Article.

Occurred: Ch. 149, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Volume of the Land Use Article is ratified by this Act.

1–509.

(a) A local jurisdiction that adopts growth tiers shall incorporate the tiers into the comprehensive plan or an element of the plan:

(1) when the local jurisdiction conducts the 6–year review of the plan under **[**§§ 1–416(a) and 3–301(a)**] § 1–416(A) OR § 3–301(A)** of this article; and

DRAFTER'S NOTE:

Error: Stylistic error in § 1–509(a)(1) of the Land Use Article.

Occurred: Ch. 149, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Volume of the Land Use Article is ratified by this Act.

5–104.

(e) The review of a residential major subdivision by the planning board shall include:

(1) the cost of providing local governmental services to the residential major subdivision unless a local jurisdiction's adequate public facilities **[**ordinance**] LAW** already requires a review of government services; and

DRAFTER'S NOTE:

Error: Incorrect word usage in § 5–104(e)(1) of the Land Use Article.

Occurred: Ch. 149, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Volume of the Land Use Article is ratified by this Act.

18–207.

(d) The Commission may:

(2) issue the bonds in serial maturity form or with a single fixed date **[**or**] OF** maturity;

DRAFTER'S NOTE:

Error: Misspelling in § 18–207(d)(2) of the Land Use Article.

Occurred: Ch. 426, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Volume of the Land Use Article is ratified by this Act.

Article – Natural Resources

4–1017.

(c) A person may possess oysters caught from the natural oyster bars of the State until one week past the close of the season for taking oysters as established in § 4–1008.1 of this subtitle. Oysters may be caught by dredge or handscrape at any time in Worcester County and may be shipped in the shell at any time within or from that county. In counties where oysters may be caught from leased areas at any time pursuant to the provisions of Subtitle **[**11**] 11A OF THIS TITLE**, a person may possess oysters at any time.

DRAFTER'S NOTE:

Error: Erroneous cross–reference; stylistic error in § 4–1017(c) of the Natural Resources Article.

Occurred: As a result of Ch. 534, Acts of 1988, which redesignated provisions of Title 4, Subtitle 11 of the Natural Resources Article to be under Title 4, Subtitle 11A of the Natural Resources Article; Ch. 4, Acts of the First Special Session of 1973.

4–11B–01.

(b) The Seafood Marketing and Aquaculture Development Program and Division of Market Development shall be part of the Department **[**of Agriculture**]**.

DRAFTER'S NOTE:

Error: Obsolete reference in § 4–11B–01(b) of the Natural Resources Article.

Occurred: As a result Ch. 411, Acts of 2011, which transferred the Seafood Marketing and Aquaculture Development Program and Division of Market Development from the Department of Agriculture to the Department of Natural Resources (referred to as the "Department", using the defined term applicable to Title 4 of the Natural Resources Article). Correction suggested by Assistant Attorney General Kathryn M. Rowe, Office of the Counsel to the General Assembly, in a memo dated May 23, 2012.

Article – Public Utilities

10–104.

(d) (2) On or after July 1, 2002, an individual applying for a taxicab license or renewal of a taxicab **[**license,**]** **LICENSE** shall submit proof of having successfully completed a course approved by the Commission that includes in the curriculum:

(i) courteous treatment of passengers;

(ii) geography and map reading for the jurisdiction in which the taxicab services will be provided; and

(iii) tourist information for the jurisdiction in which taxicab services will be provided.

DRAFTER'S NOTE:

Error: Extraneous comma in § 10–104(d)(2) of the Public Utilities Article.

Occurred: Ch. 539, Acts of 2000.

Article – Real Property

11–125.

(f) (4) By majority vote, the board of directors may settle an eminent domain proceeding or grant to the State or any county, municipality, or agency or instrumentality thereof with condemnation authority, perpetual easements, rights–of–way, licenses, leases in excess of 1 year, or similar interests affecting the common elements of the condominium for road, highway, sidewalk, bikeway, storm drain, sewer, water, utility, and similar public purposes. These actions by the board of directors are subject to the following requirements:

(i) The action shall be taken at a meeting of the board held after at least **[**60 days'**]** **60–DAYS'** notice to all unit owners and all first mortgagees listed with the condominium;

DRAFTER'S NOTE:

Error: Omitted hyphen in § 11–125(f)(4)(i) of the Real Property Article.

Occurred: Ch. 658, Acts of 1999.

Article – State Finance and Procurement

5A–303.

(a) (16) **[**"Qualified rehabilitation expenditure" means any amount that:

(i) is properly chargeable to a capital account;

(ii) is expended in the rehabilitation of a structure that by the end of the calendar year in which the certified rehabilitation is completed is a certified historic structure or a qualified rehabilitated structure;

(iii) is expended in compliance with a plan of proposed rehabilitation that has been approved by the Director; and

(iv) is not funded, financed, or otherwise reimbursed by any:

1. State or local grant;

2. grant made from the proceeds of tax–exempt bonds issued by the State, a political subdivision of the State, or an instrumentality of the State or of a political subdivision of the State;

3. State tax credit other than the tax credit under this section; or

4. other financial assistance from the State or a political subdivision of the State, other than a loan that must be repaid at an interest rate that is greater than the interest rate on general obligation bonds issued by the State at the most recent bond sale prior to the time the loan is made.

(17)**]** (i) "Qualified rehabilitated structure" means a building, other than a single–family, owner–occupied residence, that:

1. A. is located in a Main Street Maryland community; or

B. beginning in fiscal 2012, is located in a Main Street Maryland community or a sustainable community;

2. will be substantially rehabilitated; and

3. meets the requirements set forth in subsection (b)(7) of this section.

(ii) "Qualified rehabilitated structure" does not include a certified historic structure.

(17) "QUALIFIED REHABILITATION EXPENDITURE" MEANS ANY AMOUNT THAT:

(I) IS PROPERLY CHARGEABLE TO A CAPITAL ACCOUNT;

(II) IS EXPENDED IN THE REHABILITATION OF A STRUCTURE THAT BY THE END OF THE CALENDAR YEAR IN WHICH THE CERTIFIED REHABILITATION IS COMPLETED IS A CERTIFIED HISTORIC STRUCTURE OR A QUALIFIED REHABILITATED STRUCTURE;

(III) IS EXPENDED IN COMPLIANCE WITH A PLAN OF PROPOSED REHABILITATION THAT HAS BEEN APPROVED BY THE DIRECTOR; AND

(IV) IS NOT FUNDED, FINANCED, OR OTHERWISE REIMBURSED BY ANY:

1. STATE OR LOCAL GRANT;

2. GRANT MADE FROM THE PROCEEDS OF TAX–EXEMPT BONDS ISSUED BY THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION OF THE STATE;

3. STATE TAX CREDIT OTHER THAN THE TAX CREDIT UNDER THIS SECTION; OR

4. OTHER FINANCIAL ASSISTANCE FROM THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, OTHER THAN A LOAN THAT MUST BE REPAID AT AN INTEREST RATE THAT IS GREATER THAN THE INTEREST RATE ON GENERAL OBLIGATION BONDS ISSUED BY THE STATE AT THE MOST RECENT BOND SALE PRIOR TO THE TIME THE LOAN IS MADE.

(b) (1) The Director, in consultation with the Smart Growth Subcabinet, shall adopt regulations to:

(iii) for commercial rehabilitations, establish criteria, consistent with the requirements of this subsection, for evaluating, comparing, and rating plans of proposed rehabilitation that have been determined by the Director:

1. for certified historic structures, to conform with the rehabilitation standards of the United States Secretary of the Interior; **AND**

2. for rehabilitations of the exteriors of qualified rehabilitated structures, to be compatible with the rehabilitation standards of the United States Secretary of the Interior if the structure is located in, or adversely affects:

A. a designated historic district; or

B. a district determined by the Director to be eligible for listing on the National Register of Historic Places; and

DRAFTER'S NOTE:

Error: Stylistic error (failure to codify definitions in alphabetical order) in § 5A–303(a)(16) and (17) and omitted conjunction in § 5A–303(b)(1)(iii) of the State Finance and Procurement Article.

Occurred: Ch. 487, Acts of 2010.

6–222.

(a) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(5) with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this **[**paragraph**]** **ITEM**;

DRAFTER'S NOTE:

Error: Stylistic error in § 6–222(a)(5) of the State Finance and Procurement Article.

Occurred: Ch. 11, Acts of 1985.

12–111.

(a) (3) (ii) "Services" includes:

1. construction–related services;

2. architectural services;

3. engineering services; **[**or**]** **AND**

4. energy performance contract services.

DRAFTER'S NOTE:

Error: Erroneous conjunction in § 12–111(a)(3)(ii) of the State Finance and Procurement Article.

Occurred: Chs. 559 and 560, Acts of 2012.

12–301.

(b) (1) Notwithstanding any other provision of law and subject to the approval and control of the Board of Public Works, a primary procurement unit of State government is authorized to enter into energy performance contracts of up to 15 **[**years**]** **YEARS'** duration.

DRAFTER'S NOTE:

Error: Omitted apostrophe in § 12–301(b)(1) of the State Finance and Procurement Article.

Occurred: Ch. 477, Acts of 1993.

Article – State Government

9–1A–06.

(d) For a period of 1 year after the individual's service on the State Lottery **AND GAMING CONTROL** Commission or the Video Lottery Facility Location Commission ends, a licensee may not employ, or enter into a financial relationship with, an individual who has been a member of the State Lottery **AND GAMING CONTROL** Commission or the Video Lottery Facility Location Commission.

DRAFTER'S NOTE:

Error: Misnomer in § 9–1A–06(d) of the State Government Article.

Occurred: Ch. 1, Acts of the Second Special Session of 2012.

10–617.

(b) (4) Except for paragraph (2)(iii) of this subsection, this subsection does not apply to:

(ii) an assisted living **[**facility**]** **PROGRAM** as defined in § 19–1801 of the Health – General Article.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 10–617(b)(4)(ii) of the State Government Article.

Occurred: Ch. 412, Acts of 2006.

Article – Tax – General

1–305.

On or before June 30 of the year before the evaluation date of a tax credit, each evaluation committee for that tax credit shall:

(1) consult with:

(i) the Department of Budget and Management;

(ii) the Department of Legislative Services;

(iii) the Comptroller; and

(iv) **[**the Secretary, or the Secretary's designee, of**]** the department that administers the tax credit under evaluation; and

(2) prepare a plan for the evaluation.

DRAFTER'S NOTE:

Error: Extraneous language in § 1–305 of the Tax – General Article.

Occurred: Chs. 568 and 569, Acts of 2012. Correction recommended by the Attorney General in the Bill Review Letter for S.B. 739(Ch. 568)/H.B. 764(Ch. 569) of 2012 (footnote 13), dated April 26, 2012. The letter notes that the Department of Assessments and Taxation, which administers many tax credits that are subject to § 1–305 of the Tax– General Article, is headed by a "Director" not a "Secretary".

2–202.

(b) From the revenue from the State admissions and amusement tax on electronic bingo and electronic tip jars in Calvert County under § **[**4–102(d)**] 4–102(E)** of this article, the Comptroller shall distribute:

(1) for fiscal year 2013, the revenue attributable to a tax rate of 8%:

(i) $100,000 to the Boys and Girls Club of the Town of North Beach; and

(ii) the remainder to the Calvert County Youth Recreational Opportunities Fund under Title 5, Subtitle 19 of the Natural Resources Article that may only be used for a project approved by the Secretary of Natural Resources that increases youth recreational opportunities in the county;

(2) for fiscal years 2014 through 2016, from:

(i) the revenue attributable to a tax rate of 1.5%:

1. $100,000 to the Boys and Girls Club of the Town of North Beach; and

2. the remainder to the Town of North Beach;

(ii) the revenue attributable to a tax rate of 2.5% to the Town of Chesapeake Beach; and

(iii) the revenue attributable to a tax rate of 4% to the Calvert County Youth Recreational Opportunities Fund under Title 5, Subtitle 19 of the Natural Resources Article; and

(3) for fiscal year 2017 and each fiscal year thereafter, from:

(i) the revenue attributable to a tax rate of 1.5%:

1. $100,000 to the Boys and Girls Club of the Town of North Beach; and

2. the remainder to the Town of North Beach;

(ii) the revenue attributable to a tax rate of 2.5% to the Town of Chesapeake Beach; and

(iii) the revenue attributable to a tax rate of 4% to the Calvert County Board of Education for school renovation and renewal projects that may not be used to supplant county funds for public school construction.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 2–202(b) of the Tax – General Article.

Occurred: Ch. 603, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Supplement of the Tax – General Article is ratified by this Act.

4–105.

(a–1) (1) Except as provided in paragraphs (2) and (3) of this subsection, the rate of the State admissions and amusement tax imposed on electronic bingo or electronic tip jars under § **[**4–102(d)**] 4–102(E)** of this subtitle is 30% of the net proceeds subject to the tax.

(2) The rate of the State admissions and amusement tax imposed on electronic bingo or electronic tip jars in Calvert County under § **[**4–102(d)**] 4–102(E)** of this subtitle is 33% of the net proceeds subject to the tax.

(3) If net proceeds subject to the State admissions and amusement tax imposed on electronic bingo or electronic tip jars under § **[**4–102(d)**] 4–102(E)** of this subtitle are also subject to an admissions and amusement tax imposed by a county or a municipal corporation under this subtitle:

(i) the rate of the State tax may not exceed a rate that, when combined with the rate of any county or municipal corporation tax, will exceed 35% of the net proceeds; and

(ii) the rate of any county or municipal corporation admissions and amusement tax that is applicable to net proceeds derived from electronic bingo or electronic tip jars may not exceed the rate of the admissions and amusement tax imposed by the county or municipal corporation as of January 1, 2009.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 4–105(a–1) of the Tax – General Article.

Occurred: Ch. 603, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Supplement of the Tax – General Article is ratified by this Act.

Article – Tax – Property

7–208.

(a) (4) "Surviving spouse" means **[**a surviving spouse,**] AN INDIVIDUAL** who has not remarried **AND WHO**:

(i) **IS THE SURVIVING SPOUSE** of a disabled veteran;

(ii) **IS THE SURVIVING SPOUSE** of an individual who died in the line of duty; or

(iii) **[**who**]** receives Dependency and Indemnity Compensation from the United States Department of Veterans Affairs.

DRAFTER'S NOTE:

Error: Misplaced language in § 7–208(a)(4) of the Tax – Property Article.

Occurred: Ch. 296, Acts of 2006.

12–117.

(c) (5) The recordation tax is not imposed on the transfer of a controlling interest in a real property entity if the transferee of the controlling interest in the real property entity is:

(i) a nonstock corporation organized under Title 5, Subtitle 2 of the Corporations and Associations Article; and

(ii) registered with the Department of Aging as a continuing care retirement community under **[**Article 70B, § 9 of the Code**] § 10–408 OF THE HUMAN SERVICES ARTICLE**.

DRAFTER'S NOTE:

Error: Obsolete cross–reference in § 12–117(c)(5) of the Tax – Property Article.

Occurred: As a result of Ch. 3, Acts of 2007.

Article – Transportation

8–701.

(d) "On premise outdoor sign" means any outdoor sign that, regardless of content, is designed, intended, or used to advertise or inform the traveling public of:

(1) The sale or lease of the property on which it is located;

(2) The sale or lease of a product grown, produced, or manufactured on the property on which it is located; **[**or**]**

(3) THE SALE OR LEASE OF A SERVICE PERFORMED ON THE PROPERTY ON WHICH IT IS LOCATED; OR

[(3)**] (4)** The name of the owner, agent, assignee, or lessee of the property on which it is located.

DRAFTER'S NOTE:

Error: Omitted statutory text in § 8–701(d) of the Transportation Article.

Occurred: Ch. 625, Acts of 1975. Ch. 625 (S.B. 1011) of 1975 made technical changes to former Art. 89B, § 251, including renumbering subsection "(h)," which contained the definition of the term "on premise outdoor sign". While the legislative history does not indicate any intent to amend any language in the text of former subsection (h) other than the renumbering, in preparing the First Reading File Bill of S.B. 1011, the phrase "or service performed therein or thereon" was inadvertently omitted. The error was repeated in the Third Reading File Bill, the published Chapter Law, and the 1975 Supplement to the Annotated Code. When former Art. 89B, § 251 was subsequently revised without substantive change as part of a new Transportation Article (*see*, Ch. 13, Acts of 1977), the omission was repeated and has remained uncorrected since that time. This correction restores the inadvertently omitted language and makes stylistic corrections. Correction originally suggested by Judge Lawrence F. Rodowsky, MD Court of Appeals (retired), in a letter, dated March 7, 2012, to Daniel Friedman, Assistant Attorney General and Counsel to the General Assembly.

11–127.2.

(a) "Lease intended as security" means a lease of a vehicle by an individual primarily for personal, family, or household purposes for more than 180 consecutive days, including renewal periods, in which:

(2) Under the terms of the purchase option, the lessee becomes or has the option to become the owner of the vehicle for:

(ii) 1. In the case of a new vehicle, a nominal consideration of:

A. 20 percent or less of the **[**"value at consummation" of the vehicle as that term is defined in 12 C.F.R. § 213.2(a)(18)**] COST TO THE LESSOR OF THE LEASED PROPERTY INCLUDING, IF APPLICABLE, ANY INCREASE OR MARKUP BY THE LESSOR PRIOR TO CONSUMMATION**; or

(b) "Lease not intended as security" means a lease of a vehicle by an individual primarily for personal, family, or household purposes for more than 180 consecutive days, including renewal periods, in which:

(2) The lessee is provided the option to purchase the leased vehicle for:

(i) In the case of a new vehicle, a consideration in excess of:

1. 20 percent of the **[**"value at consummation" of the vehicle as that term is defined in 12 C.F.R. § 213.2(a)(18)**] COST TO THE LESSOR OF THE LEASED PROPERTY INCLUDING, IF APPLICABLE, ANY INCREASE OR MARKUP BY THE LESSOR PRIOR TO CONSUMMATION**; or

DRAFTER'S NOTE:

Error: Obsolete reference in § 11–127.2(a)(2)(ii)1A and (b)(2)(i)1 of the Transportation Article.

Occurred: As a result of the adoption of a federal rule amending 12 C.F.R. § 213, that became effective October 1, 1997, to repeal the former defined term "value at consummation". The correction substitutes the text of the former definition for the obsolete reference to the defined term.

16–122.

(a) (1) Notwithstanding any other provision of this article, the Administration shall, subject to the provisions of this section, issue or renew an identification card, a moped operator's permit, or a license to drive that is not acceptable by federal agencies for official purposes determined by the Secretary of the United States Department of Homeland Security if an applicant:

(i) 3. Would be otherwise eligible under this article for the issuance or renewal of an identification card under § 12–301 of this article, a moped operator's permit under § 16–104.2 of this subtitle, or a license to drive under this **[**title**] SUBTITLE**, but for the unresolved non–match; or

DRAFTER'S NOTE:

Error: Stylistic error in § 16–122(a)(1)(i)3 of the Transportation Article.

Occurred: Ch. 390, Acts of 2009.

16–205.1.

(a) (1) (i) In this section the following words have the meanings indicated.

(ii) **[**"Under the influence of alcohol" includes under the influence of alcohol per se as defined by § 11–174.1 of this article.

(iii)**]** "Specimen of blood" and "1 specimen of blood" means 1 sample of blood that is taken, in a single procedure, in 2 or more portions in 2 or more separate vials.

[(iv)**] (III)** "Test" means, unless the context requires otherwise:

1. A test of a person's breath or of 1 specimen of a person's blood to determine alcohol concentration;

2. A test or tests of 1 specimen of a person's blood to determine the drug or controlled dangerous substance content of the person's blood; or

3. Both:

A. A test of a person's breath or a test of 1 specimen of a person's blood, to determine alcohol concentration; and

B. A test or tests of 1 specimen of a person's blood to determine the drug or controlled dangerous substance content of the person's blood.

(IV) "UNDER THE INFLUENCE OF ALCOHOL" INCLUDES UNDER THE INFLUENCE OF ALCOHOL PER SE AS DEFINED BY § 11–174.1 OF THIS ARTICLE.

DRAFTER'S NOTE:

Error: Stylistic error (failure to codify definitions in alphabetical order) in § 16–205.1(a)(1) of the Transportation Article.

Occurred: Chs. 4 and 5, Acts of 2001. Correction by the publisher of the Annotated Code in the 2012 Replacement Volume of the Transportation Article is ratified by this Act.

24–111.3.

(b) (3) Before activating a vehicle height monitoring system, Baltimore City shall:

(i) Publish notice of the location of the vehicle height monitoring system on its Web site and in a newspaper of general circulation in the jurisdiction; **AND**

(ii) Ensure that all signs stating restrictions on the presence of certain vehicles during certain times approaching and within the segment of highway on which the vehicle height monitoring system is located include signs that:

1. Are in accordance with the manual and specifications for a uniform system of traffic control devices adopted by the State Highway Administration under § 25–104 of this article; and

2. Indicate that a vehicle height monitoring system is in use.

DRAFTER'S NOTE:

Error: Omitted conjunction in § 24–111.3(b)(3) of the Transportation Article.

Occurred: Chs. 375 and 376, Acts of 2012. Correction by the publisher of the Annotated Code in the 2012 Replacement Volume of the Transportation Article is ratified by this Act.

26–404.

(d) Any surety company may become surety for persons posting guaranteed arrest bond **[**certificates,**]** **CERTIFICATES** by filing an undertaking to become surety with the Insurance Administration.

DRAFTER'S NOTE:

Error: Extraneous comma in § 26–404(d) of the Transportation Article.

Occurred: Ch. 14, § 2, Acts of 1977.

Chapter 545 of the Acts of 2012

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2012, but before January 1, 2014. It shall remain effective for a period of 2 years 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.

DRAFTER'S NOTE:

Error: Omitted language in Ch. 545, § 3, Acts of 2012.

Occurred: Ch. 545, § 3, Acts of 2012.

Chapter 570 of the Acts of 2012

SECTION 7. AND BE IT FURTHER ENACTED, That:

(e) If the study concludes that the fair value is $50,000,000 or more:

(2) the Chesapeake Employers' Insurance Company shall owe a debt to the General Fund in an amount equal to:

(ii) 1. the $50,000,000 which is **[**required**]** **AUTHORIZED** to be transferred from the Fund to the General Fund under **[**Chapter__(S.B. 152/H.B. 87)**]** **CHAPTER 1** of the Acts of the General Assembly of **THE FIRST SPECIAL SESSION OF** 2012; and

DRAFTER'S NOTE:

Error: Erroneous terminology and reference in Ch. 570, § 7(e)(2)(ii)1, Acts of 2012.

Occurred: As a result of the failure of S.B. 152/H.B. 87 of 2012 and the subsequent enactment of Ch. 1, § 7(1), Acts of the First Special Session of 2012.

SECTION 2. AND BE IT FURTHER ENACTED, That the Drafter's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of this Act are intended solely to correct technical errors in the law and there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, subject to the approval of the Department of Legislative Services, shall make any changes in the text of the Annotated Code necessary to effectuate any termination provision that was enacted by the General Assembly and has taken effect or will take effect prior to October 1, 2013. Any enactment of the 2013 Session of the General Assembly that negates or extends the effect of a previously enacted termination provision shall prevail over the provisions of this section.

SECTION 5. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall make nonsubstantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any reference rendered incorrect or obsolete by an Act of the General Assembly, with no further action required by the General Assembly. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 6. 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 44

(Senate Bill 360)

AN ACT concerning

Criminal Law – Aggravated Animal Cruelty – Baiting

FOR the purpose of prohibiting a person from using or allowing a dog to be used for baiting; prohibiting a person from possessing, owning, selling, transporting, or training a dog with the intent to use the dog for baiting; prohibiting a person from knowingly allowing certain premises to be used for baiting; defining a certain term; and generally relating to dogfights and baiting.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–607
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

10–607.

(A) IN THIS SECTION, "BAITING" MEANS USING A DOG TO TRAIN A FIGHTING DOG OR TO TEST THE FIGHTING OR KILLING INSTINCT OF ANOTHER DOG.

[(a)**] (B)** A person may not:

(1) use or allow a dog to be used in a dogfight **OR FOR BAITING**;

(2) arrange or conduct a dogfight;

(3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight **OR FOR BAITING**; or

(4) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a dogfight **OR FOR BAITING**.

[(b)**] (C)** (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 45

(Senate Bill 369)

AN ACT concerning

Garrett County – Bonds for Garrett County Memorial Hospital

FOR the purpose of authorizing and empowering the County Commissioners of Garrett County, from time to time, to borrow not more than $15,000,000 in order to assist in the financing of the cost of certain hospital improvements in Garrett County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County and directing the County to enter into an agreement with the Board of Governors of Garrett County Memorial Hospital for the payment of debt service requirements of the bonds from the revenues of the Garrett County Memorial Hospital; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not

excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Garrett County, and the term "hospital improvements" means the alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of the Garrett County Memorial Hospital, including, but not limited to, the hospital buildings and facilities, capital furnishings and equipment, and parking facilities, means of access and utility services, demolition, removal, and relocation of existing hospital facilities, the acquisition and development, as applicable, of land, structures, real or personal property, rights, rights–of–way, easements and other interests for such hospital facilities, together with any related financing charges, interest prior to and during construction (and, if deemed necessary by the County, for a limited period after completion of construction), interest and reserves for principal and interest and for extensions, enlargements, additions and improvements, architectural, engineering, financial and legal planning and other professional services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses necessary or incident to determining the feasibility or practicability of the hospital facilities and such other expenses as may be necessary or incident to the acquisition, construction, improvement, development, rehabilitation, repair, furnishing and equipping of the hospital facilities, the financing or refinancing of such acquisition, construction, improvement, development, rehabilitation, repair, furnishing and equipping of the hospital facilities.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to assist in the financing of the costs of the hospital facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate $15,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the hospital improvements for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of § 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in

consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Garrett County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery of the bonds.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

In case any officer whose signature appears on any bond or on any coupon attached thereto ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as effective from time to time.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Garrett County or such other official of Garrett County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for financing the hospital

improvements for which the bonds are sold and that the proceeds shall be loaned or otherwise paid by the County for the benefit of Garrett County Memorial Hospital as and when and under such terms, conditions, and documentation as the County directs, and secured by such collateral as the County directs in accordance with the terms and conditions of its agreement or agreements with Garrett County Memorial Hospital, of the resolutions of the County, and of this Act. If the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the hospital improvements described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to other hospital improvements.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of this Act that the County be vested with full discretion and authority to determine what portion, if any, of the cost of any hospital improvements shall be paid from the proceeds of general obligation bonds authorized pursuant to this Act and that the County may provide or require such conditions for the loan of the proceeds of such bonds to the Garrett County Memorial Hospital, as the County deems necessary or appropriate, including (without limitation) provisions for the repayment from rates charged patients at the Hospital.

SECTION 6. AND BE IT FURTHER ENACTED, That the County may enter into an agreement or agreements with the Board of Governors of Garrett County Memorial Hospital pursuant to which the hospital shall be required to make periodic payments from the hospital's revenues or other assets (i) to the County at such times and in such amounts to assure the timely payment of the maturing principal of and interest on the bonds and any related expenses of the County; or (ii) directly to the purchaser or purchasers of the bonds at such times and in such amounts to assure the timely payment of the maturing of the principal of and interest on the bonds. However, the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source. If such funds are granted for the purpose of assisting the County or the hospital in financing the hospital improvements defined in this Act, the taxes that otherwise might be required to be levied under this Act may be reduced or

need not be levied to the extent that any such funds are received or receivable in any fiscal year.

SECTION 7. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 8. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 9. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland.

Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 10. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide

an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Garrett County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 46

(Senate Bill 405)

AN ACT concerning

Labor and Employment – Payment of Overtime Wages

FOR the purpose of limiting the applicability of an overtime wage provision of law to exclude a certain employer that is subject to Title II of the federal Railway Labor Act, under certain circumstances; and generally relating to the payment of overtime wages.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–415
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 3–420
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

3–415.

(a) Except as otherwise provided in this section, each employer shall pay an overtime wage of at least 1.5 times the usual hourly wage, computed in accordance with § 3–420 of this subtitle.

(b) This section does not apply to an employer that is:

(1) subject to 49 U.S.C. § 10501;

(2) an establishment that is a hotel or motel;

(3) an establishment that is a restaurant;

(4) considered a gasoline service station because the employer is engaged primarily in selling gasoline and lubricating oil, even if the employer sells other merchandise or performs minor repair work;

(5) a bona fide private country club;

(6) a not for profit entity and is engaged primarily in providing temporary at–home care services, such as companionship or delivery of prepared meals, to aged or sick individuals, individuals with disabilities, or individuals with a mental disorder;

(7) a not for profit concert promoter, legitimate theater, music festival, music pavilion, or theatrical show; or

(8) an amusement or recreational establishment, including a swimming pool, if the establishment:

(i) operates for no more than 7 months in a calendar year; or

(ii) for any 6 months during the preceding calendar year, has average receipts in excess of one–third of the average receipts for the other 6 months.

(c) This section does not apply to an employer with respect to:

(1) an employee for whom the United States Secretary of Transportation may set qualifications and maximum hours of service under 49 U.S.C. § 31502;

(2) a mechanic, partsperson, or salesperson who primarily sells or services automobiles, farm equipment, trailers, or trucks, if the employer is engaged primarily in selling those vehicles to ultimate buyers and is not a manufacturer; **[**or**]**

(3) a driver if the employer is engaged in the business of operating taxicabs**; OR**

(4) UNLESS A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A LABOR ORGANIZATION PROVIDES OTHERWISE, AN EMPLOYEE OF THE EMPLOYER IF:

(I) THE EMPLOYER IS SUBJECT TO TITLE II OF THE FEDERAL RAILWAY LABOR ACT;

(II) THE EMPLOYER DOES NOT REQUIRE THE EMPLOYEE TO WORK MORE THAN 40 HOURS DURING 1 WORKWEEK; AND

(III) THE EMPLOYEE VOLUNTARILY ENTERS INTO AN AGREEMENT WITH ANOTHER EMPLOYEE TO TRADE SCHEDULED WORK HOURS AND AS A RESULT THE EMPLOYEE WORKS MORE THAN 40 HOURS DURING A SINGLE WORKWEEK.

3–420.

(a) Except as otherwise provided in this section, an employer shall compute the wage for overtime under § 3–415 of this subtitle on the basis of each hour over 40 hours that an employee works during 1 workweek.

(b) Notwithstanding § 3–415(b)(8) of this subtitle, an employer that is not a not for profit organization and is a concert promoter, legitimate theater, music festival, music pavilion, or theatrical show shall pay overtime for a craft or trade employee as required in subsection (a) of this section.

(c) The wage for overtime may be computed on the basis of each hour over 60 hours that an employee works during 1 workweek for an employee who:

(1) is engaged in agriculture; and

(2) is exempt from the overtime provisions of the federal Act.

(d) The wage for overtime may be computed on the basis of each hour over 48 hours that an employee works during 1 workweek:

(1) for an employee of a bowling establishment; and

(2) for an employee of an institution that:

(i) is not a hospital; but

(ii) is engaged primarily in the care of individuals who:

1. are aged, intellectually disabled, or sick or have a mental disorder; and

2. reside at the institution.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 47

(Senate Bill 408)

AN ACT concerning

Washington County – Special Deputy Sheriffs ~~– Insurance Coverage~~

FOR the purpose of ~~establishing that county liability insurance shall be provided to a special deputy sheriff in Washington County only when the special deputy sheriff is performing certain duties~~ specifying that the duties to which the Sheriff of Washington County is required to assign special deputy sheriffs include certain duties; making the provision of county liability insurance to a special deputy sheriff discretionary, rather than mandatory; repealing a certain limitation on the provision of county liability insurance; establishing that designation as a special deputy sheriff does not authorize the special deputy sheriff to perform law enforcement duties outside the special deputy sheriff's jurisdiction except under certain circumstances; establishing that a special deputy sheriff is under the authority of the Sheriff of Washington County while the special deputy sheriff is performing certain duties; and generally relating to special deputy sheriffs in Washington County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(w)(4)(ii)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY adding to
Article – Courts and Judicial Proceedings

Section 2–309(w)(4)(iii) and (iv)
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.

(w) (4) (ii) The appointment of special deputy sheriffs is subject to the following conditions:

1. The Sheriff shall assign the special deputy sheriff who is a member of the police force to duties in the municipality where the special deputy sheriff is a member of the police force or to duties in other areas of the county**, INCLUDING:**

A. PERFORMING A VEHICLE TRAFFIC STOP RESULTING FROM THE SPECIAL DEPUTY SHERIFF'S OBSERVATION THAT THE OPERATION OF THE VEHICLE ENDANGERED HUMAN LIFE;

B. STABILIZING A TRAFFIC SITUATION THAT IS ENDANGERING HUMAN LIFE;

C. STABILIZING AN EMERGENCY SITUATION THAT INVOLVES THE POTENTIAL FOR LOSS OF HUMAN LIFE, BODILY INJURY, OR DAMAGE TO PROPERTY;

D. RESPONDING AS AN INITIAL RESPONDER OR AN EMERGENCY RESPONDER AFTER BEING DISPATCHED BY THE WASHINGTON COUNTY EMERGENCY COMMUNICATIONS CENTER TO A LOCATION OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION BUT WHICH THE EMERGENCY COMMUNICATIONS CENTER BELIEVED WAS IN THE SPECIAL DEPUTY SHERIFF'S JURISDICTION;

E. RESPONDING TO AN EMERGENCY UNDER A MUTUAL AID AND ASSISTANCE AGREEMENT TO WHICH A MUNICIPALITY AND THE WASHINGTON COUNTY SHERIFF'S OFFICE ARE PARTIES AND WHICH IS IN EFFECT AT THE TIME OF THE RESPONSE OR UNDER A MUTUAL AID AGREEMENT UNDER § 2–105 OF THE CRIMINAL PROCEDURE ARTICLE IF THE SPECIAL DEPUTY SHERIFF IS IN COMPLIANCE WITH THE AGREEMENT;

F. SERVING ON A TASK FORCE THAT IS JOINTLY OPERATED BY A MUNICIPAL POLICE DEPARTMENT AND THE WASHINGTON COUNTY SHERIFF'S OFFICE; OR

G. SERVING ON A SPECIAL RESPONSE TEAM THAT HAS BEEN ACTIVATED FOR A RESPONSE OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION;

2. The Sheriff may terminate the appointment of the special deputy sheriff for cause or on completion of the assignment for which the special deputy sheriff was appointed;

3. The special deputy sheriff is not an employee of Washington County for the purpose of employment security or employee benefits; and

4. County liability insurance ~~shall~~ **MAY** be provided to a special deputy sheriff ~~only when the special deputy sheriff is acting within the special deputy sheriff's official duties as special deputy sheriff AND IS:~~

~~**A. PERFORMING A VEHICLE TRAFFIC STOP IN WHICH THE SPECIAL DEPUTY SHERIFF OBSERVED THAT THE OPERATION OF THE VEHICLE ENDANGERED HUMAN LIFE;**~~

~~**B. STABILIZING A TRAFFIC SITUATION WHICH IS ENDANGERING HUMAN LIFE;**~~

~~**C. STABILIZING AN EMERGENCY SITUATION THAT INVOLVES THE POTENTIAL FOR LOSS OF HUMAN LIFE, BODILY INJURY, OR DAMAGE TO PROPERTY;**~~

~~**D. RESPONDING AS AN INITIAL RESPONDER OR AN EMERGENCY RESPONDER IN WHICH THE SPECIAL DEPUTY SHERIFF WAS DISPATCHED BY THE WASHINGTON COUNTY EMERGENCY COMMUNICATIONS CENTER TO A LOCATION OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION BUT WHICH THE EMERGENCY COMMUNICATIONS CENTER BELIEVED WAS IN THE SPECIAL DEPUTY SHERIFF'S JURISDICTION;**~~

~~**E. RESPONDING TO AN EMERGENCY UNDER A MUTUAL AID AND ASSISTANCE AGREEMENT TO WHICH A MUNICIPALITY AND THE WASHINGTON COUNTY SHERIFF'S OFFICE ARE PARTIES AND WHICH IS IN EFFECT AT THE TIME OF THE RESPONSE OR UNDER A MUTUAL AID AGREEMENT UNDER § 2–105 OF THE CRIMINAL PROCEDURE ARTICLE IF THE SPECIAL DEPUTY SHERIFF IS IN COMPLIANCE WITH THE AGREEMENT;**~~

~~F. SERVING ON A TASK FORCE THAT IS JOINTLY OPERATED BY A MUNICIPAL POLICE DEPARTMENT AND THE WASHINGTON COUNTY SHERIFF'S OFFICE; OR~~

~~G. SERVING ON A SPECIAL RESPONSE TEAM THAT HAS BEEN ACTIVATED FOR A RESPONSE OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION~~.

(III) EXCEPT AS PROVIDED IN SUBPARAGRAPH ~~(II)4~~ (II)1 OF THIS PARAGRAPH, DESIGNATION AS A SPECIAL DEPUTY SHERIFF DOES NOT AUTHORIZE THE SPECIAL DEPUTY SHERIFF TO PERFORM LAW ENFORCEMENT DUTIES OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION.

(IV) A SPECIAL DEPUTY SHERIFF IS UNDER THE AUTHORITY OF THE SHERIFF OF WASHINGTON COUNTY WHILE THE SPECIAL DEPUTY SHERIFF IS PERFORMING DUTIES AS A SPECIAL DEPUTY SHERIFF.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 48

(House Bill 559)

AN ACT concerning

Washington County – Special Deputy Sheriffs ~~– Insurance Coverage~~

FOR the purpose of ~~establishing that county liability insurance shall be provided to a special deputy sheriff in Washington County only when the special deputy sheriff is performing certain duties~~ specifying that the duties to which the Sheriff of Washington County is required to assign special deputy sheriffs include certain duties; making the provision of county liability insurance to a special deputy sheriff discretionary, rather than mandatory; repealing a certain limitation on the provision of county liability insurance; establishing that designation as a special deputy sheriff does not authorize the special deputy sheriff to perform law enforcement duties outside the special deputy sheriff's jurisdiction except under certain circumstances; establishing that a special deputy sheriff is under the authority of the Sheriff of Washington County while the special deputy sheriff is performing certain duties; and generally relating to special deputy sheriffs in Washington County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(w)(4)(ii)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 2–309(w)(4)(iii) and (iv)
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.

(w) (4) (ii) The appointment of special deputy sheriffs is subject to the following conditions:

1. The Sheriff shall assign the special deputy sheriff who is a member of the police force to duties in the municipality where the special deputy sheriff is a member of the police force or to duties in other areas of the county**, INCLUDING:**

A. PERFORMING A VEHICLE TRAFFIC STOP RESULTING FROM THE SPECIAL DEPUTY SHERIFF'S OBSERVATION THAT THE OPERATION OF THE VEHICLE ENDANGERED HUMAN LIFE;

B. STABILIZING A TRAFFIC SITUATION THAT IS ENDANGERING HUMAN LIFE;

C. STABILIZING AN EMERGENCY SITUATION THAT INVOLVES THE POTENTIAL FOR LOSS OF HUMAN LIFE, BODILY INJURY, OR DAMAGE TO PROPERTY;

D. RESPONDING AS AN INITIAL RESPONDER OR AN EMERGENCY RESPONDER AFTER BEING DISPATCHED BY THE WASHINGTON COUNTY EMERGENCY COMMUNICATIONS CENTER TO A LOCATION OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION BUT WHICH THE EMERGENCY COMMUNICATIONS CENTER BELIEVED WAS IN THE SPECIAL DEPUTY SHERIFF'S JURISDICTION;

E. RESPONDING TO AN EMERGENCY UNDER A MUTUAL AID AND ASSISTANCE AGREEMENT TO WHICH A MUNICIPALITY AND THE WASHINGTON COUNTY SHERIFF'S OFFICE ARE PARTIES AND WHICH IS IN EFFECT AT THE TIME OF THE RESPONSE OR UNDER A MUTUAL AID AGREEMENT UNDER § 2–105 OF THE CRIMINAL PROCEDURE ARTICLE IF THE SPECIAL DEPUTY SHERIFF IS IN COMPLIANCE WITH THE AGREEMENT;

F. SERVING ON A TASK FORCE THAT IS JOINTLY OPERATED BY A MUNICIPAL POLICE DEPARTMENT AND THE WASHINGTON COUNTY SHERIFF'S OFFICE; OR

G. SERVING ON A SPECIAL RESPONSE TEAM THAT HAS BEEN ACTIVATED FOR A RESPONSE OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION;

2. The Sheriff may terminate the appointment of the special deputy sheriff for cause or on completion of the assignment for which the special deputy sheriff was appointed;

3. The special deputy sheriff is not an employee of Washington County for the purpose of employment security or employee benefits; and

4. County liability insurance ~~shall~~ **MAY** be provided to a special deputy sheriff ~~only when the special deputy sheriff is acting within the special deputy sheriff's official duties as special deputy sheriff AND IS:~~

~~**A. PERFORMING A VEHICLE TRAFFIC STOP IN WHICH THE SPECIAL DEPUTY SHERIFF OBSERVED THAT THE OPERATION OF THE VEHICLE ENDANGERED HUMAN LIFE;**~~

~~**B. STABILIZING A TRAFFIC SITUATION WHICH IS ENDANGERING HUMAN LIFE;**~~

~~**C. STABILIZING AN EMERGENCY SITUATION THAT INVOLVES THE POTENTIAL FOR LOSS OF HUMAN LIFE, BODILY INJURY, OR DAMAGE TO PROPERTY;**~~

~~**D. RESPONDING AS AN INITIAL RESPONDER OR AN EMERGENCY RESPONDER IN WHICH THE SPECIAL DEPUTY SHERIFF WAS DISPATCHED BY THE WASHINGTON COUNTY EMERGENCY COMMUNICATIONS CENTER TO A LOCATION OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION BUT WHICH THE EMERGENCY COMMUNICATIONS CENTER BELIEVED WAS IN THE SPECIAL DEPUTY SHERIFF'S JURISDICTION;**~~

~~**E. RESPONDING TO AN EMERGENCY UNDER A MUTUAL AID AND ASSISTANCE AGREEMENT TO WHICH A MUNICIPALITY AND THE WASHINGTON COUNTY SHERIFF'S OFFICE ARE PARTIES AND WHICH IS IN EFFECT AT THE TIME OF THE RESPONSE OR UNDER A MUTUAL AID AGREEMENT UNDER § 2–105 OF THE CRIMINAL PROCEDURE ARTICLE IF THE SPECIAL DEPUTY SHERIFF IS IN COMPLIANCE WITH THE AGREEMENT;**~~

~~**F. SERVING ON A TASK FORCE THAT IS JOINTLY OPERATED BY A MUNICIPAL POLICE DEPARTMENT AND THE WASHINGTON COUNTY SHERIFF'S OFFICE; OR**~~

~~**G. SERVING ON A SPECIAL RESPONSE TEAM THAT HAS BEEN ACTIVATED FOR A RESPONSE OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION**~~.

(III) EXCEPT AS PROVIDED IN SUBPARAGRAPH ~~(II)4~~ (II)1 OF THIS PARAGRAPH, DESIGNATION AS A SPECIAL DEPUTY SHERIFF DOES NOT AUTHORIZE THE SPECIAL DEPUTY SHERIFF TO PERFORM LAW ENFORCEMENT DUTIES OUTSIDE THE SPECIAL DEPUTY SHERIFF'S JURISDICTION.

(IV) A SPECIAL DEPUTY SHERIFF IS UNDER THE AUTHORITY OF THE SHERIFF OF WASHINGTON COUNTY WHILE THE SPECIAL DEPUTY SHERIFF IS PERFORMING DUTIES AS A SPECIAL DEPUTY SHERIFF.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 49

(Senate Bill 413)

AN ACT concerning

Criminal History Records Checks – Informal Child Care Providers

FOR the purpose of altering certain provisions of law relating to individuals required to obtain a criminal history records check; requiring an adult known to be residing in an informal child care provider's home to obtain a criminal history records check; requiring certain informal child care providers to obtain a criminal history records check; requiring the Department of Public Safety and Correctional Services to provide certain applicants' State criminal records to the

State Department of Education; providing for a delayed effective date; and generally relating to criminal history records checks of individuals who care for or supervise children.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–561(c), 5–562(a), and 5–564(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 – Family Law

5–561.

(c) The following individuals shall obtain a criminal history records check under this Part VI of this subtitle:

(1) an individual who is seeking to adopt a child through a child placement agency;

(2) an individual who is seeking to become a guardian through a local department;

(3) an individual whom the juvenile court appoints as a guardian of a child;

(4) an adult relative with whom a child, committed to a local department, is placed by the local department;

(5) any adult known by a local department **OR THE STATE DEPARTMENT OF EDUCATION** to be residing in:

(i) a family child care home or large family child care home required to be registered under this title;

(II) A HOME WHERE INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS, IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE;

[(ii)**] (III)** a home of an adult relative of a child with whom the child, committed to a local department, is placed by the local department;

[(iii)**] (IV)** a foster care home or child care home required to be approved under this title;

[(iv)**] (V)** a home of an individual seeking to adopt a child through a child placement agency; or

[(v)**] (VI)** a home of an individual seeking to become a guardian through a local department; **[**and**]**

(6) AN INDIVIDUAL WHO AGREES TO PROVIDE, OR TO CONTINUE PROVIDING, INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS, ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS; AND

[(6)**] (7)** if requested by a local department:

(i) a parent or guardian of a child who is committed to the local department and is or has been placed in an out–of–home placement within the past year; and

(ii) any adult known by the local department to be residing in the home of the parent or guardian.

5–562.

(a) (1) On or before the 1st day of actual employment, an employee shall apply to the Department for a printed statement.

(2) On or before the 1st day of actual operation of a facility identified in § 5–561 of this subtitle, an employer shall apply to the Department for a printed statement.

(3) (I) BEFORE AN INDIVIDUAL MAY BE APPROVED TO PROVIDE OR TO CONTINUE PROVIDING INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS, THE INDIVIDUAL SHALL APPLY TO THE DEPARTMENT FOR A PRINTED STATEMENT.

(II) AN INDIVIDUAL WHO WAS APPROVED BEFORE JANUARY 1, 2014, TO PROVIDE INFORMAL CHILD CARE AND WHO INTENDS TO CONTINUE PROVIDING INFORMAL CHILD CARE ON OR AFTER THAT DATE HAS UNTIL JUNE 30, 2014, TO APPLY TO THE DEPARTMENT FOR A PRINTED STATEMENT.

[(3)**] (4)** Within 5 days after a local department places a child who is committed to the local department with an adult relative, an individual identified in § 5–561(c) or (e) of this subtitle shall apply to the Department for a printed statement.

5–564.

(b) (1) The Department shall provide an initial and a revised statement of the applicant's State criminal record to:

(i) the recipients of the printed statement specified in subsection (c) of this section; and

(ii) the State Department of Education if the applicant is **[**an employee of**]**:

1. **AN EMPLOYEE OF, OR AN ADULT RESIDENT IN,** a child care center that is required to be licensed or to hold a letter of compliance under Part VII of this subtitle; **[**or**]**

2. **AN EMPLOYEE OF, OR AN ADULT RESIDENT IN,** a family child care home or large family child care home that is required to be registered under Part V of this subtitle**; OR**

3. AN INDIVIDUAL WHO PROVIDES OR AGREES TO PROVIDE INFORMAL CHILD CARE OR AN ADULT WHO RESIDES IN A HOME WHERE INFORMAL CHILD CARE IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE.

(2) The Department shall distribute the printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

Approved by the Governor, April 9, 2013.

Chapter 50

(House Bill 443)

AN ACT concerning

Criminal History Records Checks – Informal Child Care Providers

FOR the purpose of altering certain provisions of law relating to individuals required to obtain a criminal history records check; requiring an adult known to be residing in an informal child care provider's home to obtain a criminal history records check; requiring certain informal child care providers to obtain a criminal history records check; requiring the Department of Public Safety and Correctional Services to provide certain applicants' State criminal records to the State Department of Education; providing for a delayed effective date; and generally relating to criminal history records checks of individuals who care for or supervise children.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–561(c), 5–562(a), and 5–564(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 – Family Law

5–561.

(c) The following individuals shall obtain a criminal history records check under this Part VI of this subtitle:

(1) an individual who is seeking to adopt a child through a child placement agency;

(2) an individual who is seeking to become a guardian through a local department;

(3) an individual whom the juvenile court appoints as a guardian of a child;

(4) an adult relative with whom a child, committed to a local department, is placed by the local department;

(5) any adult known by a local department **OR THE STATE DEPARTMENT OF EDUCATION** to be residing in:

(i) a family child care home or large family child care home required to be registered under this title;

(II) A HOME WHERE INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE

OF MARYLAND REGULATIONS, IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE;

[(ii)**] (III)** a home of an adult relative of a child with whom the child, committed to a local department, is placed by the local department;

[(iii)**] (IV)** a foster care home or child care home required to be approved under this title;

[(iv)**] (V)** a home of an individual seeking to adopt a child through a child placement agency; or

[(v)**] (VI)** a home of an individual seeking to become a guardian through a local department; **[**and**]**

(6) AN INDIVIDUAL WHO AGREES TO PROVIDE, OR TO CONTINUE PROVIDING, INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS, ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS; AND

[(6)**] (7)** if requested by a local department:

(i) a parent or guardian of a child who is committed to the local department and is or has been placed in an out–of–home placement within the past year; and

(ii) any adult known by the local department to be residing in the home of the parent or guardian.

5–562.

(a) (1) On or before the 1st day of actual employment, an employee shall apply to the Department for a printed statement.

(2) On or before the 1st day of actual operation of a facility identified in § 5–561 of this subtitle, an employer shall apply to the Department for a printed statement.

(3) (I) BEFORE AN INDIVIDUAL MAY BE APPROVED TO PROVIDE OR TO CONTINUE PROVIDING INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS, THE INDIVIDUAL SHALL APPLY TO THE DEPARTMENT FOR A PRINTED STATEMENT.

(II) AN INDIVIDUAL WHO WAS APPROVED BEFORE JANUARY 1, 2014, TO PROVIDE INFORMAL CHILD CARE AND WHO INTENDS TO CONTINUE PROVIDING INFORMAL CHILD CARE ON OR AFTER THAT DATE HAS UNTIL JUNE 30, 2014, TO APPLY TO THE DEPARTMENT FOR A PRINTED STATEMENT.

[(3)**] (4)** Within 5 days after a local department places a child who is committed to the local department with an adult relative, an individual identified in § 5–561(c) or (e) of this subtitle shall apply to the Department for a printed statement.

5–564.

(b) (1) The Department shall provide an initial and a revised statement of the applicant's State criminal record to:

(i) the recipients of the printed statement specified in subsection (c) of this section; and

(ii) the State Department of Education if the applicant is **[**an employee of**]**:

1. **AN EMPLOYEE OF, OR AN ADULT RESIDENT IN,** a child care center that is required to be licensed or to hold a letter of compliance under Part VII of this subtitle; **[**or**]**

2. **AN EMPLOYEE OF, OR AN ADULT RESIDENT IN,** a family child care home or large family child care home that is required to be registered under Part V of this subtitle**; OR**

3. AN INDIVIDUAL WHO PROVIDES OR AGREES TO PROVIDE INFORMAL CHILD CARE OR AN ADULT WHO RESIDES IN A HOME WHERE INFORMAL CHILD CARE IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE.

(2) The Department shall distribute the printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

Approved by the Governor, April 9, 2013.

Chapter 51

(Senate Bill 415)

AN ACT concerning

Criminal History Records Checks – Child Care Providers

FOR the purpose of requiring the Department of Public Safety and Correctional Services to transmit weekly a certain registry ~~and a certain listing~~ to the State Department of Education in a certain format; prohibiting a registered sex offender from entering onto certain real property on which a home is located where certain informal child care is provided or will be provided; requiring certain adults known by the State Department of Education to be residing in certain locations to obtain a certain criminal history records check; ~~requiring an adult known to be residing in an informal child care provider's home to obtain a criminal history records check; requiring certain informal child care providers to obtain a criminal history records check;~~ requiring the State Department of Education to conduct ~~a certain cross–reference~~ certain cross–references; providing for a delayed effective date; and generally relating to criminal history records checks of individuals who care for or supervise children.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–713 and 11–722
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–561(c)
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to
Article – Family Law
Section 5–564.1
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 – Criminal Procedure

11–713.

The Department:

(1) as soon as possible but not later than 3 working days after receiving the conviction data and fingerprints of a registrant, shall transmit the data and fingerprints to the Federal Bureau of Investigation if the Bureau does not have that information;

(2) shall keep a central registry of registrants and a listing of juvenile sex offenders;

(3) SHALL WEEKLY TRANSMIT THE CENTRAL REGISTRY OF REGISTRANTS ~~AND LISTING OF JUVENILE SEX OFFENDERS~~ TO THE STATE DEPARTMENT OF EDUCATION IN A FORMAT THAT CAN BE USED BY THE STATE SUPERINTENDENT TO CROSS–REFERENCE WITH THE DATABASE OF LICENSED CHILD CARE CENTERS, REGISTERED FAMILY CHILD CARE HOMES, AND APPROVED CHILD CARE SUBSIDY PROGRAM INFORMAL PROVIDERS;

[(3)**] (4)** shall reimburse local law enforcement units for the cost of processing the registration statements of registrants, including the cost of taking fingerprints, palm prints, and digital images;

[(4)**] (5)** shall reimburse local law enforcement units for the reasonable costs of implementing community notification procedures;

[(5)**] (6)** shall be responsible for receiving and distributing all intrastate, federal, and foreign government communications relating to the registration of sex offenders; and

[(6)**] (7)** shall notify all jurisdictions where the registrant will reside, carry on employment, or attend school within 3 days of changes in the registrant's registration.

11–722.

(a) This section does not apply to a registrant who enters real property:

(1) where the registrant is a student or the registrant's child is a student or receives child care, if:

(i) within the past year the registrant has been given the specific written permission of the Superintendent of Schools, the local school board, the principal of the school, or the owner or operator of the registered family child care home, licensed child care home, or licensed child care institution, as applicable; and

(ii) the registrant promptly notifies an agent or employee of the school, home, or institution of the registrant's presence and purpose of visit; or

(2) for the purpose of voting at a school on an election day in the State if the registrant is properly registered to vote and the registrant's polling place is at the school.

(b) A registrant may not knowingly enter onto real property:

(1) that is used for public or nonpublic elementary or secondary education; or

(2) on which is located:

(i) a family child care home registered under Title 5, Subtitle 5 of the Family Law Article; **[**or**]**

(ii) a child care home or a child care institution licensed under Title 5, Subtitle 5 of the Family Law Article**; OR**

(III) A HOME WHERE INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS, IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE.

(c) A person who enters into a contract with a county board of education or a nonpublic school may not knowingly employ an individual to work at a school if the individual is a registrant.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.

Article – Family Law

5–561.

(c) The following individuals shall obtain a criminal history records check under this Part VI of this subtitle:

(1) an individual who is seeking to adopt a child through a child placement agency;

(2) an individual who is seeking to become a guardian through a local department;

(3) an individual whom the juvenile court appoints as a guardian of a child;

(4) an adult relative with whom a child, committed to a local department, is placed by the local department;

(5) any adult known by a local department **OR THE STATE DEPARTMENT OF EDUCATION** to be residing in:

(i) a family child care home or large family child care home required to be registered under this title;

~~**(II) A HOME WHERE INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS, IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE;**~~

[(ii)**]** ~~**(III)**~~ a home of an adult relative of a child with whom the child, committed to a local department, is placed by the local department;

[(iii)**]** ~~**(IV)**~~ a foster care home or child care home required to be approved under this title;

[(iv)**]** ~~**(V)**~~ a home of an individual seeking to adopt a child through a child placement agency; or

[(v)**]** ~~**(VI)**~~ a home of an individual seeking to become a guardian through a local department; **[**and**]**

~~**(6) AN INDIVIDUAL WHO AGREES TO PROVIDE, OR TO CONTINUE PROVIDING, INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS, ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS; AND**~~

[(6)**]** ~~**(7)**~~ if requested by a local department:

(i) a parent or guardian of a child who is committed to the local department and is or has been placed in an out–of–home placement within the past year; and

(ii) any adult known by the local department to be residing in the home of the parent or guardian.

5–564.1.

THE STATE DEPARTMENT OF EDUCATION SHALL CONDUCT A CROSS–REFERENCE CHECK ~~**OF AN EMPLOYEE, EMPLOYER, OR INDIVIDUAL**~~

~~IDENTIFIED IN § 5–561(B)(1), (B)(2), (C)(5)(I), (C)(5)(II), AND (C)(6) OF THIS SUBTITLE~~, INCLUDING CROSS–REFERENCING THE INDIVIDUAL AND THE INDIVIDUAL'S ADDRESS, WITH THE CENTRAL REGISTRY OF REGISTRANTS ~~AND LISTING OF JUVENILE SEX OFFENDERS~~ TRANSMITTED WEEKLY BY THE DEPARTMENT UNDER § 11–713 OF THE CRIMINAL PROCEDURE ARTICLE, OF:

(1) AN EMPLOYEE, EMPLOYER, OR INDIVIDUAL IDENTIFIED IN § 5–561(B)(1), (B)(2), OR (C)(5)(I) OF THIS SUBTITLE; AND

(2) AN INDIVIDUAL WHO PROVIDES OR AGREES TO PROVIDE INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

Approved by the Governor, April 9, 2013.

Chapter 52

(House Bill 442)

AN ACT concerning

Criminal History Records Checks – Child Care Providers

FOR the purpose of requiring the Department of Public Safety and Correctional Services to transmit weekly a certain registry ~~and a certain listing~~ to the State Department of Education in a certain format; prohibiting a registered sex offender from entering onto certain real property on which a home is located where certain informal child care is provided or will be provided; requiring certain adults known by the State Department of Education to be residing in certain locations to obtain a certain criminal history records check; ~~requiring an adult known to be residing in an informal child care provider's home to obtain a criminal history records check; requiring certain informal child care providers to obtain a criminal history records check;~~ requiring the State Department of Education to conduct ~~a certain cross–reference~~ certain cross–references; providing for a delayed effective date; and generally relating to criminal history records checks of individuals who care for or supervise children.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–713 and 11–722
Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–561(c)
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to
Article – Family Law
Section 5–564.1
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 – Criminal Procedure

11–713.

The Department:

(1) as soon as possible but not later than 3 working days after receiving the conviction data and fingerprints of a registrant, shall transmit the data and fingerprints to the Federal Bureau of Investigation if the Bureau does not have that information;

(2) shall keep a central registry of registrants and a listing of juvenile sex offenders;

(3) SHALL WEEKLY TRANSMIT THE CENTRAL REGISTRY OF REGISTRANTS ~~AND LISTING OF JUVENILE SEX OFFENDERS~~ TO THE STATE DEPARTMENT OF EDUCATION IN A FORMAT THAT CAN BE USED BY THE STATE SUPERINTENDENT TO CROSS–REFERENCE WITH THE DATABASE OF LICENSED CHILD CARE CENTERS, REGISTERED FAMILY CHILD CARE HOMES, AND APPROVED CHILD CARE SUBSIDY PROGRAM INFORMAL PROVIDERS;

[(3)**] (4)** shall reimburse local law enforcement units for the cost of processing the registration statements of registrants, including the cost of taking fingerprints, palm prints, and digital images;

[(4)**] (5)** shall reimburse local law enforcement units for the reasonable costs of implementing community notification procedures;

[(5)**] (6)** shall be responsible for receiving and distributing all intrastate, federal, and foreign government communications relating to the registration of sex offenders; and

[(6)**] (7)** shall notify all jurisdictions where the registrant will reside, carry on employment, or attend school within 3 days of changes in the registrant's registration.

11–722.

(a) This section does not apply to a registrant who enters real property:

(1) where the registrant is a student or the registrant's child is a student or receives child care, if:

(i) within the past year the registrant has been given the specific written permission of the Superintendent of Schools, the local school board, the principal of the school, or the owner or operator of the registered family child care home, licensed child care home, or licensed child care institution, as applicable; and

(ii) the registrant promptly notifies an agent or employee of the school, home, or institution of the registrant's presence and purpose of visit; or

(2) for the purpose of voting at a school on an election day in the State if the registrant is properly registered to vote and the registrant's polling place is at the school.

(b) A registrant may not knowingly enter onto real property:

(1) that is used for public or nonpublic elementary or secondary education; or

(2) on which is located:

(i) a family child care home registered under Title 5, Subtitle 5 of the Family Law Article; **[**or**]**

(ii) a child care home or a child care institution licensed under Title 5, Subtitle 5 of the Family Law Article**; OR**

(III) A HOME WHERE INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS, IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE.

(c) A person who enters into a contract with a county board of education or a nonpublic school may not knowingly employ an individual to work at a school if the individual is a registrant.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.

Article – Family Law

5–561.

(c) The following individuals shall obtain a criminal history records check under this Part VI of this subtitle:

(1) an individual who is seeking to adopt a child through a child placement agency;

(2) an individual who is seeking to become a guardian through a local department;

(3) an individual whom the juvenile court appoints as a guardian of a child;

(4) an adult relative with whom a child, committed to a local department, is placed by the local department;

(5) any adult known by a local department **OR THE STATE DEPARTMENT OF EDUCATION** to be residing in:

(i) a family child care home or large family child care home required to be registered under this title;

~~**(II) A HOME WHERE INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS, IS BEING PROVIDED OR WILL BE PROVIDED TO A CHILD WHO DOES NOT RESIDE THERE;**~~

~~[~~(ii)~~]~~ ~~**(III)**~~ a home of an adult relative of a child with whom the child, committed to a local department, is placed by the local department;

~~[~~(iii)~~]~~ ~~**(IV)**~~ a foster care home or child care home required to be approved under this title;

~~[~~(iv)~~]~~ ~~**(V)**~~ a home of an individual seeking to adopt a child through a child placement agency; or

~~[~~(v)~~]~~ ~~(VI)~~ a home of an individual seeking to become a guardian through a local department; ~~[~~and~~]~~

~~(6) AN INDIVIDUAL WHO AGREES TO PROVIDE, OR TO CONTINUE PROVIDING, INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS, ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS; AND~~

~~[~~(6)~~]~~ ~~(7)~~ if requested by a local department:

(i) a parent or guardian of a child who is committed to the local department and is or has been placed in an out–of–home placement within the past year; and

(ii) any adult known by the local department to be residing in the home of the parent or guardian.

5–564.1.

THE STATE DEPARTMENT OF EDUCATION SHALL CONDUCT A CROSS–REFERENCE CHECK ~~OF AN EMPLOYEE, EMPLOYER, OR INDIVIDUAL IDENTIFIED IN § 5–561(B)(1), (B)(2), (C)(5)(I), (C)(5)(II), AND (C)(6) OF THIS SUBTITLE~~, INCLUDING CROSS–REFERENCING THE INDIVIDUAL AND THE INDIVIDUAL'S ADDRESS, WITH THE CENTRAL REGISTRY OF REGISTRANTS ~~AND LISTING OF JUVENILE SEX OFFENDERS~~ TRANSMITTED WEEKLY BY THE DEPARTMENT UNDER § 11–713 OF THE CRIMINAL PROCEDURE ARTICLE, OF:

(1) AN EMPLOYEE, EMPLOYER, OR INDIVIDUAL IDENTIFIED IN § 5–561(B)(1), (B)(2), OR (C)(5)(I) OF THIS SUBTITLE; AND

(2) AN INDIVIDUAL WHO PROVIDES OR AGREES TO PROVIDE INFORMAL CHILD CARE, AS DEFINED IN CHILD CARE SUBSIDY REGULATIONS ADOPTED UNDER TITLE 13A OF THE CODE OF MARYLAND REGULATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

Approved by the Governor, April 9, 2013.

Chapter 53

(Senate Bill 421)

AN ACT concerning

Circuit Court Clerks – Salary

FOR the purpose of altering a certain limit on the maximum salary that the Board of Public Works may set for a clerk of a circuit court; providing that this Act does not apply to the salary or compensation of an incumbent clerk of a circuit court during a certain term of office; and generally relating to the salary of a clerk of a circuit court.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–504(a)
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

2–504.

(a) The clerk of each circuit court shall receive an annual salary of not more than **[**$98,500**]** **$114,500** as set by the Board of Public Works on the basis of the relative volume of business and receipts in the clerk's office.

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 clerk of a circuit court 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 clerk of a circuit court 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 54

(House Bill 950)

AN ACT concerning

Circuit Court Clerks – Salary

FOR the purpose of altering a certain limit on the maximum salary that the Board of Public Works may set for a clerk of a circuit court; providing that this Act does not apply to the salary or compensation of an incumbent clerk of a circuit court during a certain term of office; and generally relating to the salary of a clerk of a circuit court.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–504(a)
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

2–504.

(a) The clerk of each circuit court shall receive an annual salary of not more than **[**$98,500**] $114,500** as set by the Board of Public Works on the basis of the relative volume of business and receipts in the clerk's office.

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 clerk of a circuit court 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 clerk of a circuit court 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 55

(Senate Bill 441)

AN ACT concerning

Correctional Training Commission – ~~Correctional Officer~~ Members

FOR the purpose of ~~requiring that certain members~~ altering the membership of the Correctional Training Commission ~~be correctional officers only rather than correctional officers or officials of the State; requiring that certain members of the Commission be recommended by the exclusive representative for the correctional officers before appointment by the Governor~~; and generally relating to membership of the Correctional Training Commission.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 8–204
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 – Correctional Services

8–204.

(a) The Commission consists of the following ~~14~~ members:

(1) the Secretary of Public Safety and Correctional Services;

(2) the Secretary of Juvenile Services;

(3) a representative of the Department of Public Safety and Correctional Services, designated by the Secretary of Public Safety and Correctional Services;

(4) A REPRESENTATIVE OF THE DEPARTMENT OF JUVENILE SERVICES, DESIGNATED BY THE SECRETARY OF JUVENILE SERVICES;

~~(4)~~ **(5)** a Deputy Secretary of Public Safety and Correctional Services;

~~(5)~~ **(6)** the president of the Maryland Correctional Administrators Association;

~~(6)~~ **(7)** the president of the Maryland Sheriffs Association;

~~(7)~~ **(8)** the president of the Maryland Criminal Justice Association;

~~(8)~~ **(9)** a representative of the Federal Bureau of Prisons, designated by its Director;

~~(9)~~ **(10)** the Attorney General of the State;

~~(10)~~ **(11)** the president of a university or college in the State with a correctional education curriculum, appointed by the Maryland Higher Education Commission; ~~and~~

(12) ONE CORRECTIONAL OFFICER OF THE STATE RECOMMENDED BY THE EXCLUSIVE REPRESENTATIVE FOR THE OFFICERS COVERED UNDER TITLE 10, SUBTITLE 9 OF THIS ARTICLE AND APPOINTED BY THE GOVERNOR; AND

~~(11)~~ **(13)** four correctional officers ~~[~~or officials~~]~~ of the State ~~RECOMMENDED BY THE EXCLUSIVE REPRESENTATIVE FOR THE OFFICERS COVERED UNDER TITLE 10, SUBTITLE 9 OF THIS ARTICLE AND~~ appointed under subsection (b) of this section.

(b) (1) The Governor shall appoint, with the advice and consent of the Senate, four correctional officers ~~[~~or officials~~]~~ to be members of the Commission, at least one of whom shall be a Department of Juvenile Services employee ~~[~~or official~~]~~.

(2) The four members appointed under paragraph (1) of this subsection shall represent different geographic areas of the State.

(3) The term of a member who is appointed under paragraph (1) of this subsection is 3 years.

(4) The terms of the members who are appointed under paragraph (1) of this subsection are staggered as required by the terms provided for members of the Commission on October 1, 1999.

(5) (i) At the end of a term, a member who was appointed under paragraph (1) of this subsection continues to serve until a successor is appointed and qualifies.

(ii) A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.

(c) Except for the four members appointed by the Governor under subsection (b) of this section, a member of the Commission may serve personally at a Commission

meeting or designate a representative from the member's unit or association who may act at any meeting to the same effect as if the member were personally present.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 56

(Senate Bill 458)

AN ACT concerning

Calvert County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Calvert County, from time to time, to borrow not more than $33,810,000 to finance the construction, improvement, or development of certain public facilities in Calvert County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Calvert County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities, including but not limited to the Emergency Communication System Upgrade and Expansions, Appeal Waterline Extension, Pasri Oaks Pump Station Rehab, and St. Leonard Well and Storage, and

issuance costs together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, $33,810,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Calvert County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in a bond order pursuant to the bond resolution. The bonds may be issued in registered form and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale

thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Calvert County or such other official of Calvert County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy

or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County in such an amount as shall be necessary for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Calvert County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 57

(Senate Bill 464)

AN ACT concerning

Natural Resources – Aquaculture – Shellfish Nursery Permits

FOR the purpose of prohibiting a person from engaging in the commercial rearing of shellfish seed outside certain leased areas without first obtaining a shellfish nursery permit from the Department of Natural Resources; placing certain limitations on the issuance and scope of a permit for land–based and in–water shellfish nursery operations; ~~providing that certain water quality classifications and restrictions established by the Department of the Environment may not affect certain in–water shellfish nursery operations;~~ clarifying that a person is not required to obtain a water column lease or a submerged land lease for

in–water shellfish nursery operations; exempting shellfish nursery products from certain water quality classifications and restrictions; establishing a certain application process and a certain application fee for permit applications; authorizing the Department of Natural Resources to deny a permit application for reasonable cause or to include conditions in a permit; establishing a certain term for a permit; authorizing the Department of Natural Resources to suspend or revoke a permit for certain reasons; requiring a permit holder to allow certain inspections by the Department of Natural Resources; authorizing the Department of Natural Resources to adopt regulations implementing this Act; defining a certain term; making this Act an emergency measure; and generally relating to shellfish nursery permits.

BY adding to
Article – Natural Resources
Section 4–11A–23
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–23.

(A) IN THIS SECTION, "PERMIT" MEANS A SHELLFISH NURSERY PERMIT.

(B) A PERSON MAY NOT ENGAGE IN THE COMMERCIAL REARING OF SHELLFISH SEED OUTSIDE AN AREA LEASED UNDER THIS SUBTITLE WITHOUT FIRST OBTAINING A PERMIT FROM THE DEPARTMENT.

(C) FOR A SHELLFISH NURSERY TO BE LOCATED ON LAND, THE DEPARTMENT MAY ISSUE A PERMIT ONLY TO THE OWNER OR LEGAL TENANT OF THE PROPERTY OR TO A PERSON WITH THE PERMISSION OF THE PROPERTY OWNER.

(D) (1) FOR A SHELLFISH NURSERY TO BE LOCATED IN WATERS OF THE STATE OUTSIDE A LEASED AREA, THE DEPARTMENT MAY ISSUE A PERMIT ONLY:

(I) TO THE OWNER OF A WHARF OR OTHER STRUCTURE CONSTRUCTED ON OR ABOUT THE WATER AND APPROVED BY THE U.S. ARMY CORPS OF ENGINEERS, OR TO A PERSON WITH THE PERMISSION OF THE OWNER OF THE WHARF OR OTHER STRUCTURE; AND

(II) FOR THE CULTIVATION OF SHELLFISH SEED WITHIN 20 FEET OF THE WHARF OR OTHER STRUCTURE, IN AN AREA OF WATER NOT EXCEEDING 200 SQUARE FEET.

(2) A PERSON IS NOT REQUIRED TO OBTAIN A WATER COLUMN LEASE OR A SUBMERGED LAND LEASE FOR A PERMITTED IN–WATER SHELLFISH NURSERY OPERATION.

(3) ~~WATER~~ SHELLFISH NURSERY PRODUCTS ARE EXEMPT FROM WATER QUALITY CLASSIFICATIONS AND RESTRICTIONS ESTABLISHED BY THE DEPARTMENT OF THE ENVIRONMENT UNDER THE NATIONAL SHELLFISH SANITATION PROGRAM ~~OR § 4–742 OF THIS TITLE MAY NOT AFFECT A PERMITTED IN–WATER SHELLFISH NURSERY OPERATION~~.

(E) (1) TO OBTAIN A PERMIT, A PERSON SHALL:

(I) COMPLETE AND SUBMIT AN APPLICATION TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT; AND

(II) PAY A NONREFUNDABLE APPLICATION FEE ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH THE AQUACULTURE COORDINATING COUNCIL.

(2) THE APPLICATION FEE MAY NOT EXCEED THE COST OF PROCESSING THE PERMIT.

(F) THE DEPARTMENT MAY, AS IT CONSIDERS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE:

(1) DENY A PERMIT APPLICATION FOR REASONABLE CAUSE; OR

(2) INCLUDE CONDITIONS IN A PERMIT.

(G) (1) THE TERM OF A SHELLFISH NURSERY PERMIT IS 5 YEARS.

(2) THE DEPARTMENT MAY REVOKE OR SUSPEND A PERMIT ISSUED UNDER THIS SECTION AT ANY TIME FOR NONCOMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, REGULATIONS ADOPTED UNDER THIS SECTION, OR THE CONDITIONS OF THE PERMIT.

(H) A PERMIT HOLDER SHALL ALLOW THE DEPARTMENT TO INSPECT AT REASONABLE HOURS ANY FACILITIES, EQUIPMENT, OR SHELLFISH THAT ARE PART OF THE PERMIT HOLDER'S SHELLFISH NURSERY OPERATIONS.

(I) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

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 58

(Senate Bill 507)

AN ACT concerning

Correctional Facilities – Inmate Programs in Washington County – Payment of Child Support

FOR the purpose of requiring an inmate participating in certain home detention, work release, or pretrial release programs in Washington County to be responsible for costs of child support; and generally relating to child support and inmate programs in Washington County.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 11–723
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 – Correctional Services

11–723.

(a) This section applies only in Washington County.

(b) (1) The Sheriff shall:

(i) establish and administer:

1. a home detention program;

2. a work release program; and

3. a pretrial release program; and

(ii) adopt regulations necessary to implement each program established under this section.

(2) At the time of sentencing or at any time during an individual's confinement, the court may allow an individual who is placed in the custody of the Sheriff to participate in any program established under this section.

(3) Subject to paragraph (4) of this subsection, an inmate is eligible to participate in any program established under this section if the inmate:

(i) is recommended for the program by the court; and

(ii) meets eligibility criteria set by the Sheriff.

(4) An inmate is not eligible to participate in any program established under this section if the inmate:

(i) is incarcerated for or has been convicted previously of a crime of violence listed in § 14–101 of the Criminal Law Article; or

(ii) has been found guilty of the crime of:

1. child abuse under § 3–601 or § 3–602 of the Criminal Law Article; or

2. escape under § 9–404 of the Criminal Law Article.

(5) While participating in any program established under this section an inmate is responsible for:

(i) the inmate's medical care and related expenses; and

(ii) costs of lodging, food, clothing, transportation, restitution, **CHILD SUPPORT,** and taxes.

(6) The Sheriff may:

(i) collect a reasonable fee from each inmate participating in any program established under this section; or

(ii) waive or reduce the fee.

(7) The Sheriff may determine the maximum number of inmates that may participate in any program established under this section.

(8) An inmate who knowingly violates a term or a condition of any program established under this section is subject to the penalties provided under § 11–726 of this subtitle and to other disciplinary action provided by law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 59

(House Bill 792)

AN ACT concerning

Correctional Facilities – Inmate Programs in Washington County – Payment of Child Support

FOR the purpose of requiring an inmate participating in certain home detention, work release, or pretrial release programs in Washington County to be responsible for costs of child support; and generally relating to child support and inmate programs in Washington County.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 11–723
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 – Correctional Services

11–723.

(a) This section applies only in Washington County.

(b) (1) The Sheriff shall:

(i) establish and administer:

1. a home detention program;

2. a work release program; and

3. a pretrial release program; and

(ii) adopt regulations necessary to implement each program established under this section.

(2) At the time of sentencing or at any time during an individual's confinement, the court may allow an individual who is placed in the custody of the Sheriff to participate in any program established under this section.

(3) Subject to paragraph (4) of this subsection, an inmate is eligible to participate in any program established under this section if the inmate:

(i) is recommended for the program by the court; and

(ii) meets eligibility criteria set by the Sheriff.

(4) An inmate is not eligible to participate in any program established under this section if the inmate:

(i) is incarcerated for or has been convicted previously of a crime of violence listed in § 14–101 of the Criminal Law Article; or

(ii) has been found guilty of the crime of:

1. child abuse under § 3–601 or § 3–602 of the Criminal Law Article; or

2. escape under § 9–404 of the Criminal Law Article.

(5) While participating in any program established under this section an inmate is responsible for:

(i) the inmate's medical care and related expenses; and

(ii) costs of lodging, food, clothing, transportation, restitution, **CHILD SUPPORT,** and taxes.

(6) The Sheriff may:

(i) collect a reasonable fee from each inmate participating in any program established under this section; or

(ii) waive or reduce the fee.

(7) The Sheriff may determine the maximum number of inmates that may participate in any program established under this section.

(8) An inmate who knowingly violates a term or a condition of any program established under this section is subject to the penalties provided under § 11–726 of this subtitle and to other disciplinary action provided by law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 60

(Senate Bill 508)

AN ACT concerning

Washington County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Washington County, from time to time, to borrow not more than $60,000,000 in order to finance the costs of the construction, improvement, or development of certain public facilities in Washington County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds, and the interest thereon and any income derived therefrom, from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land, woodland preservation easements, and transferable development rights; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Washington County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, the following, together with related architectural, financial, legal, planning, or engineering services:

(a) Public school buildings, a school for the arts, administrative facilities, sites, and grounds;

(b) Community College buildings, sites, and grounds;

(c) Buildings and facilities for public safety, health and social services, libraries, County administration purposes, County airport purposes, refuse collection, recycling or disposal by whatever means, and park and recreation purposes;

(d) Acquisition of land or interests in land and any improvement thereon; and

(e) Easements or similar or related rights in land, including transferable development rights, that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, $60,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue;

the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of the County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 2C, 9, 10, and 11 of Article 31 of the Annotated Code of Maryland. The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds. If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, including the manner of receipt of bids, and a form of advertisement. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Washington County or such other official of the County as may be designated to receive such payment in a resolution passed by the County Commissioners of Washington County before such delivery. For purposes of issuance and sale, bonds, authorized hereunder may be consolidated into a single issue with any other bonds authorized to be issued by the County.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described

in the resolution, the County may issue additional bonds within the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of Washington County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase

premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland.

Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Washington County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That the borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land, including transferable development rights, that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland. The form of installment

purchase obligations, the manner of accomplishing the acquisition of easements, which may be by the direct exchange of installment purchase obligations for easements or transferable development rights, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements or transferable development rights by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, county, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 61

(Senate Bill 580)

AN ACT concerning

Medical Marijuana – Caregiver – Affirmative Defense

FOR the purpose of establishing that it is an affirmative defense to a prosecution for the possession of marijuana or the possession of certain drug paraphernalia that the marijuana or drug paraphernalia was intended for medical use by an individual with a certain debilitating medical condition for whom the defendant is a certain caregiver; prohibiting a certain defendant from asserting a certain affirmative defense unless~~, at least a certain number of days before trial,~~ the defendant notifies the State's Attorney of the defendant's intention to assert the affirmative defense and provides the State's Attorney with certain documentation <u>in accordance with certain rules of discovery</u>; prohibiting a certain affirmative defense from being used under certain circumstances; defining a certain term; and generally relating to the medical use of marijuana.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–601(c)(3) and 5–619(c)(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

5–601.

(c) (3) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Bona fide physician–patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

3. "CAREGIVER" MEANS AN INDIVIDUAL DESIGNATED BY A PATIENT WITH A DEBILITATING MEDICAL CONDITION TO PROVIDE PHYSICAL OR MEDICAL ASSISTANCE TO THE PATIENT, INCLUDING ASSISTING WITH THE MEDICAL USE OF MARIJUANA, WHO:

A. IS A RESIDENT OF THE STATE;

B. IS AT LEAST 21 YEARS OLD;

C. IS AN IMMEDIATE FAMILY MEMBER, A SPOUSE, OR A DOMESTIC PARTNER OF THE PATIENT;

D. HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN § 14–101 OF THIS ARTICLE;

E. HAS NOT BEEN CONVICTED OF A VIOLATION OF A STATE OR FEDERAL CONTROLLED DANGEROUS SUBSTANCES LAW;

F. HAS NOT BEEN CONVICTED OF A CRIME OF MORAL TURPITUDE;

G. HAS BEEN DESIGNATED AS CAREGIVER BY THE PATIENT IN WRITING THAT HAS BEEN PLACED IN THE PATIENT'S MEDICAL RECORD PRIOR TO ARREST;

H. IS THE ONLY INDIVIDUAL DESIGNATED BY THE PATIENT TO SERVE AS CAREGIVER; AND

I. IS NOT SERVING AS CAREGIVER FOR ANY OTHER PATIENT.

[3.**] 4.** "Debilitating medical condition" means a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician–patient relationship:

A. cachexia or wasting syndrome;

B. severe or chronic pain;

C. severe nausea;

D. seizures;

E. severe and persistent muscle spasms; or

F. any other condition that is severe and resistant to conventional medicine.

(ii) 1. In a prosecution for the use or possession of marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed marijuana because of medical necessity, on conviction of a violation of this section, the maximum penalty that the court may impose on the person is a fine not exceeding $100.

(iii) 1. In a prosecution for the use or possession of marijuana under this section, it is an affirmative defense that the defendant used or possessed marijuana because:

A. the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician–patient relationship;

B. the debilitating medical condition is severe and resistant to conventional medicine; and

C. marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

2. A. IN A PROSECUTION FOR THE POSSESSION OF MARIJUANA UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT POSSESSED MARIJUANA BECAUSE THE MARIJUANA WAS INTENDED FOR MEDICAL USE BY AN INDIVIDUAL WITH A DEBILITATING MEDICAL CONDITION FOR WHOM THE DEFENDANT IS A CAREGIVER.

B. A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE UNDER THIS SUBSUBPARAGRAPH UNLESS~~, AT LEAST 30 DAYS BEFORE TRIAL,~~ THE DEFENDANT NOTIFIES THE STATE'S ATTORNEY OF THE DEFENDANT'S INTENTION TO ASSERT THE AFFIRMATIVE DEFENSE AND PROVIDES THE STATE'S ATTORNEY WITH ALL DOCUMENTATION IN SUPPORT OF THE AFFIRMATIVE DEFENSE IN ACCORDANCE WITH THE RULES OF DISCOVERY PROVIDED IN MARYLAND RULES 4–262 AND 4–263.

[2.**] 3. [**The**] AN** affirmative defense **UNDER THIS SUBPARAGRAPH** may not be used if the defendant was:

A. using marijuana in a public place **OR ASSISTING THE INDIVIDUAL FOR WHOM THE DEFENDANT IS A CAREGIVER IN USING THE MARIJUANA IN A PUBLIC PLACE**; or

B. in possession of more than 1 ounce of marijuana.

5–619.

(c) (4) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Bona fide physician–patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

3. "CAREGIVER" MEANS AN INDIVIDUAL DESIGNATED BY A PATIENT WITH A DEBILITATING MEDICAL CONDITION TO PROVIDE PHYSICAL OR MEDICAL ASSISTANCE TO THE PATIENT, INCLUDING ASSISTING WITH THE MEDICAL USE OF MARIJUANA, WHO:

A. IS A RESIDENT OF THE STATE;

B. IS AT LEAST 21 YEARS OLD;

C. IS AN IMMEDIATE FAMILY MEMBER, A SPOUSE, OR A DOMESTIC PARTNER OF THE PATIENT;

D. HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN § 14–101 OF THIS ARTICLE;

E. HAS NOT BEEN CONVICTED OF A VIOLATION OF A STATE OR FEDERAL CONTROLLED DANGEROUS SUBSTANCES LAW;

F. HAS NOT BEEN CONVICTED OF A CRIME OF MORAL TURPITUDE;

G. HAS BEEN DESIGNATED AS CAREGIVER BY THE PATIENT IN WRITING THAT HAS BEEN PLACED IN THE PATIENT'S MEDICAL RECORD PRIOR TO ARREST;

H. IS THE ONLY INDIVIDUAL DESIGNATED BY THE PATIENT TO SERVE AS CAREGIVER; AND

I. IS NOT SERVING AS CAREGIVER FOR ANY OTHER PATIENT.

[3.**] 4.** "Debilitating medical condition" means a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician–patient relationship:

A. cachexia or wasting syndrome;

B. severe or chronic pain;

C. severe nausea;

D. seizures;

E. severe and persistent muscle spasms; or

F. any other condition that is severe and resistant to conventional medicine.

(ii) 1. In a prosecution under this subsection involving drug paraphernalia related to marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, on conviction of a violation of this subsection, the maximum penalty that the court may impose on the person is a fine not exceeding $100.

(iii) 1. In a prosecution under this subsection involving drug paraphernalia related to marijuana, it is an affirmative defense that the defendant used or possessed drug paraphernalia related to marijuana because:

A. the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician–patient relationship;

B. the debilitating medical condition is severe and resistant to conventional medicine; and

C. marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

2. A. IN A PROSECUTION UNDER THIS SUBSECTION INVOLVING DRUG PARAPHERNALIA RELATED TO MARIJUANA, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT POSSESSED DRUG PARAPHERNALIA RELATED TO MARIJUANA BECAUSE THE DRUG PARAPHERNALIA RELATED TO MARIJUANA WAS INTENDED FOR MEDICAL USE BY AN INDIVIDUAL WITH A DEBILITATING MEDICAL CONDITION FOR WHOM THE DEFENDANT IS A CAREGIVER.

B. A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE UNDER THIS SUBSUBPARAGRAPH UNLESS~~, AT LEAST 30 DAYS BEFORE TRIAL,~~ THE DEFENDANT NOTIFIES THE STATE'S ATTORNEY OF THE DEFENDANT'S INTENTION TO ASSERT THE AFFIRMATIVE DEFENSE AND PROVIDES THE STATE'S ATTORNEY WITH ALL DOCUMENTATION IN SUPPORT OF THE AFFIRMATIVE DEFENSE IN ACCORDANCE WITH THE RULES OF DISCOVERY PROVIDED IN MARYLAND RULES 4–262 AND 4–263.

[2.**] 3. [**The**] AN** affirmative defense **UNDER THIS SUBPARAGRAPH** may not be used if the defendant was:

A. using marijuana in a public place **OR ASSISTING THE INDIVIDUAL FOR WHOM THE DEFENDANT IS A CAREGIVER IN USING THE MARIJUANA IN A PUBLIC PLACE**; or

B. in possession of more than 1 ounce of marijuana.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 62

(House Bill 180)

AN ACT concerning

Medical Marijuana – Caregiver – Affirmative Defense

FOR the purpose of establishing that it is an affirmative defense to a prosecution for the possession of marijuana or the possession of certain drug paraphernalia that the marijuana or drug paraphernalia was intended for medical use by an individual with a certain debilitating medical condition for whom the defendant is a certain caregiver; prohibiting a certain defendant from asserting a certain affirmative defense unless~~, at least a certain number of days before trial,~~ the defendant notifies the State's Attorney of the defendant's intention to assert the affirmative defense and provides the State's Attorney with certain documentation in accordance with certain rules of discovery; prohibiting a certain affirmative defense from being used under certain circumstances; defining a certain term; and generally relating to the medical use of marijuana.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–601(c)(3) and 5–619(c)(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

5–601.

(c) (3) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Bona fide physician–patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

3. "CAREGIVER" MEANS AN INDIVIDUAL DESIGNATED BY A PATIENT WITH A DEBILITATING MEDICAL CONDITION TO PROVIDE PHYSICAL OR MEDICAL ASSISTANCE TO THE PATIENT, INCLUDING ASSISTING WITH THE MEDICAL USE OF MARIJUANA, WHO:

A. IS A RESIDENT OF THE STATE;

B. IS AT LEAST 21 YEARS OLD;

C. IS AN IMMEDIATE FAMILY MEMBER, A SPOUSE, OR A DOMESTIC PARTNER OF THE PATIENT;

D. HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN § 14–101 OF THIS ARTICLE;

E. HAS NOT BEEN CONVICTED OF A VIOLATION OF A STATE OR FEDERAL CONTROLLED DANGEROUS SUBSTANCES LAW;

F. HAS NOT BEEN CONVICTED OF A CRIME OF MORAL TURPITUDE;

G. HAS BEEN DESIGNATED AS CAREGIVER BY THE PATIENT IN WRITING THAT HAS BEEN PLACED IN THE PATIENT'S MEDICAL RECORD PRIOR TO ARREST;

H. IS THE ONLY INDIVIDUAL DESIGNATED BY THE PATIENT TO SERVE AS CAREGIVER; AND

I. IS NOT SERVING AS CAREGIVER FOR ANY OTHER PATIENT.

[3.**] 4.** "Debilitating medical condition" means a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician–patient relationship:

A. cachexia or wasting syndrome;

B. severe or chronic pain;

C. severe nausea;

D. seizures;

E. severe and persistent muscle spasms; or

F. any other condition that is severe and resistant to conventional medicine.

(ii) 1. In a prosecution for the use or possession of marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed marijuana because of medical necessity, on conviction of a violation of this section, the maximum penalty that the court may impose on the person is a fine not exceeding $100.

(iii) 1. In a prosecution for the use or possession of marijuana under this section, it is an affirmative defense that the defendant used or possessed marijuana because:

A. the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician–patient relationship;

B. the debilitating medical condition is severe and resistant to conventional medicine; and

C. marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

2. A. IN A PROSECUTION FOR THE POSSESSION OF MARIJUANA UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT POSSESSED MARIJUANA BECAUSE THE MARIJUANA WAS INTENDED FOR MEDICAL USE BY AN INDIVIDUAL WITH A DEBILITATING MEDICAL CONDITION FOR WHOM THE DEFENDANT IS A CAREGIVER.

B. A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE UNDER THIS SUBSUBPARAGRAPH UNLESS~~, AT LEAST 30 DAYS BEFORE TRIAL,~~ THE DEFENDANT NOTIFIES THE STATE'S ATTORNEY OF THE DEFENDANT'S INTENTION TO ASSERT THE AFFIRMATIVE DEFENSE AND PROVIDES THE STATE'S ATTORNEY WITH ALL DOCUMENTATION IN SUPPORT OF THE AFFIRMATIVE DEFENSE IN ACCORDANCE WITH THE RULES OF DISCOVERY PROVIDED IN MARYLAND RULES 4–262 AND 4–263.

[2.**] 3. [**The**] AN** affirmative defense **UNDER THIS SUBPARAGRAPH** may not be used if the defendant was:

A. using marijuana in a public place **OR ASSISTING THE INDIVIDUAL FOR WHOM THE DEFENDANT IS A CAREGIVER IN USING THE MARIJUANA IN A PUBLIC PLACE**; or

B. in possession of more than 1 ounce of marijuana.

5–619.

(c) (4) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Bona fide physician–patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

3. "CAREGIVER" MEANS AN INDIVIDUAL DESIGNATED BY A PATIENT WITH A DEBILITATING MEDICAL CONDITION TO PROVIDE PHYSICAL OR MEDICAL ASSISTANCE TO THE PATIENT, INCLUDING ASSISTING WITH THE MEDICAL USE OF MARIJUANA, WHO:

A. IS A RESIDENT OF THE STATE;

B. IS AT LEAST 21 YEARS OLD;

C. IS AN IMMEDIATE FAMILY MEMBER, A SPOUSE, OR A DOMESTIC PARTNER OF THE PATIENT;

D. HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN § 14–101 OF THIS ARTICLE;

E. HAS NOT BEEN CONVICTED OF A VIOLATION OF A STATE OR FEDERAL CONTROLLED DANGEROUS SUBSTANCES LAW;

F. HAS NOT BEEN CONVICTED OF A CRIME OF MORAL TURPITUDE;

G. HAS BEEN DESIGNATED AS CAREGIVER BY THE PATIENT IN WRITING THAT HAS BEEN PLACED IN THE PATIENT'S MEDICAL RECORD PRIOR TO ARREST;

H. IS THE ONLY INDIVIDUAL DESIGNATED BY THE PATIENT TO SERVE AS CAREGIVER; AND

I. IS NOT SERVING AS CAREGIVER FOR ANY OTHER PATIENT.

[3.**] 4.** "Debilitating medical condition" means a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician–patient relationship:

A. cachexia or wasting syndrome;

B. severe or chronic pain;

C. severe nausea;

D. seizures;

E. severe and persistent muscle spasms; or

F. any other condition that is severe and resistant to conventional medicine.

(ii) 1. In a prosecution under this subsection involving drug paraphernalia related to marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, on conviction of a violation of this subsection, the maximum penalty that the court may impose on the person is a fine not exceeding $100.

(iii) 1. In a prosecution under this subsection involving drug paraphernalia related to marijuana, it is an affirmative defense that the defendant used or possessed drug paraphernalia related to marijuana because:

A. the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician–patient relationship;

B. the debilitating medical condition is severe and resistant to conventional medicine; and

C. marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

2. A. IN A PROSECUTION UNDER THIS SUBSECTION INVOLVING DRUG PARAPHERNALIA RELATED TO MARIJUANA, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT POSSESSED DRUG PARAPHERNALIA RELATED TO MARIJUANA BECAUSE THE DRUG PARAPHERNALIA RELATED TO MARIJUANA WAS INTENDED FOR MEDICAL USE BY AN INDIVIDUAL WITH A DEBILITATING MEDICAL CONDITION FOR WHOM THE DEFENDANT IS A CAREGIVER.

B. A DEFENDANT MAY NOT ASSERT THE AFFIRMATIVE DEFENSE UNDER THIS SUBSUBPARAGRAPH UNLESS~~, AT LEAST 30 DAYS BEFORE TRIAL,~~ THE DEFENDANT NOTIFIES THE STATE'S ATTORNEY OF THE DEFENDANT'S INTENTION TO ASSERT THE AFFIRMATIVE DEFENSE AND PROVIDES THE STATE'S ATTORNEY WITH ALL DOCUMENTATION IN SUPPORT OF THE AFFIRMATIVE DEFENSE IN ACCORDANCE WITH THE RULES OF DISCOVERY PROVIDED IN MARYLAND RULES 4–262 AND 4–263.

[2.**] 3. [**The**] AN** affirmative defense **UNDER THIS SUBPARAGRAPH** may not be used if the defendant was:

A. using marijuana in a public place **OR ASSISTING THE INDIVIDUAL FOR WHOM THE DEFENDANT IS A CAREGIVER IN USING THE MARIJUANA IN A PUBLIC PLACE**; or

B. in possession of more than 1 ounce of marijuana.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 63

(Senate Bill 588)

AN ACT concerning

Carroll County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than $40,000,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency–related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations

executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, $40,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are

intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and

matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or

emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency–related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 64

(Senate Bill 600)

AN ACT concerning

Vehicle Laws – Electric Vehicles

FOR the purpose of altering and harmonizing certain variations of the defined term "plug–in electric drive vehicle" as that term applies to planning by a utility for the availability and reliability of electric supply, excise tax credits, and exemptions allowing the use of high occupancy vehicle lanes regardless of the number of passengers; clarifying the application of the excise tax credit for plug–in electric drive vehicles; clarifying the application of and extending the termination date for the exemption allowing the use of high occupancy vehicle lanes by plug–in electric drive vehicles regardless of the number of passengers; altering the deadlines for the reporting requirements for the Maryland Electric Vehicle Infrastructure Council; extending the termination date for the Council; and generally relating to electric vehicles.

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–616(p)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–616(p)(5)(xvi)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to
Article – Transportation
Section 11–145.1
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–815 and 25–108
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 491 of the Acts of the General Assembly of 2010
Section 2

BY repealing and reenacting, with amendments,
Chapter 492 of the Acts of the General Assembly of 2010
Section 2

BY repealing and reenacting, without amendments,

Chapter 400 of the Acts of the General Assembly of 2011
Section 1(b)

BY repealing and reenacting, with amendments,
Chapter 400 of the Acts of the General Assembly of 2011
Section 1(h) and 2

BY repealing and reenacting, without amendments,
Chapter 401 of the Acts of the General Assembly of 2011
Section 1(b)

BY repealing and reenacting, with amendments,
Chapter 401 of the Acts of the General Assembly of 2011
Section 1(h) and 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

10–616.

(p) (1) Except as provided in paragraphs (2) through (5) of this subsection, a custodian may not knowingly disclose a public record of the Motor Vehicle Administration containing personal information.

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(xvi) for use by an electric company, as defined in § 1–101 of the Public Utilities Article, but only:

1. information describing a plug–in **ELECTRIC DRIVE** vehicle, as defined in § **[**25–108**] 11–145.1** of the Transportation Article, and identifying the address of the registered owner of the plug–in vehicle;

2. for use in planning for the availability and reliability of the electric power supply; and

3. if the information is not:

A. published or redisclosed, including redisclosed to an affiliate as defined in § 7–501 of the Public Utilities Article; or

B. used for marketing or solicitation purposes; and

Article – Transportation

11–145.1.

(A) "PLUG–IN ELECTRIC DRIVE VEHICLE" MEANS A MOTOR VEHICLE THAT:

(1) IS MADE BY A MANUFACTURER;

(2) IS MANUFACTURED PRIMARILY FOR USE ON PUBLIC STREETS, ROADS, AND HIGHWAYS;

(3) IS RATED AT NOT MORE THAN 8,500 POUNDS UNLOADED GROSS VEHICLE WEIGHT;

(4) HAS A MAXIMUM SPEED CAPABILITY OF AT LEAST 55 MILES PER HOUR; AND

(5) IS PROPELLED TO A SIGNIFICANT EXTENT BY AN ELECTRIC MOTOR THAT DRAWS ELECTRICITY FROM A BATTERY THAT:

(I) HAS A CAPACITY OF NOT LESS THAN 4 KILOWATT–HOURS FOR 4–WHEELED MOTOR VEHICLES AND NOT LESS THAN 2.5 KILOWATT–HOURS FOR 2–WHEELED OR 3–WHEELED MOTOR VEHICLES; AND

(II) IS CAPABLE OF BEING RECHARGED FROM AN EXTERNAL SOURCE OF ELECTRICITY.

(B) "PLUG–IN ELECTRIC DRIVE VEHICLE" INCLUDES A QUALIFYING VEHICLE THAT HAS BEEN MODIFIED FROM ORIGINAL MANUFACTURER SPECIFICATIONS.

13–815.

(a) **[**(1)**]** In this **[**section the following words have the meanings indicated.

(2) "Excise**] SECTION, "EXCISE** tax" means the tax imposed under § 13–809 of this subtitle.

[(3) "Qualified plug–in electric drive vehicle" means a motor vehicle that:

(i) Is made by a manufacturer;

(ii) Is manufactured primarily for use on public streets, roads, and highways;

(iii) Has not been modified from original manufacturer specifications;

(iv) Is acquired for use or lease by the taxpayer and not for resale;

(v) Is rated at not more than 8,500 pounds unloaded gross vehicle weight;

(vi) Has a maximum speed capability of at least 55 miles per hour;

(vii) Is propelled to a significant extent by an electric motor that draws electricity from a battery that:

1. For a 4–wheeled motor vehicle, has a capacity of not less than 4 kilowatt–hours;

2. For a 2–wheeled or 3–wheeled motor vehicle, has a capacity of not less than 2.5 kilowatt–hours; and

3. Is capable of being recharged from an external source of electricity; and

(viii) Is titled by the taxpayer on or after October 1, 2010, but before July 1, 2013.**]**

(b) **THIS SECTION APPLIES ONLY TO A PLUG–IN ELECTRIC DRIVE VEHICLE THAT:**

(1) HAS NOT BEEN MODIFIED FROM ORIGINAL MANUFACTURER SPECIFICATIONS;

(2) IS ACQUIRED FOR USE OR LEASE BY THE TAXPAYER AND NOT FOR RESALE; AND

(3) IS TITLED BY THE TAXPAYER ON OR AFTER OCTOBER 1, 2010, BUT BEFORE JULY 1, 2013.

(C) (1) A credit is allowed against the excise tax imposed for a **[**qualified**]** plug–in electric drive vehicle.

(2) Subject to the limitations under subsections (c) through (e) of this section, the credit allowed under this section equals 100% of the excise tax imposed for a vehicle.

[(c)**] (D)** The credit allowed under this section may not exceed $2,000.

[(d)**] (E)** The credit allowed under this section is limited to the acquisition of:

(1) One vehicle per individual; and

(2) 10 vehicles per business entity.

[(e)**] (F)** A credit may not be claimed under this section:

(1) For a vehicle unless the vehicle is registered in the State;

(2) Unless the manufacturer has already conformed to any applicable State or federal laws or regulations governing clean–fuel vehicle or electric vehicle purchases applicable during the calendar year in which the vehicle is titled; or

(3) For a vehicle that was initially registered in another state.

[(f)**] (G)** The Motor Vehicle Administration shall administer the credit under this section.

25–108.

(a) **[**(1)**]** In this **[**section the following words have the meanings indicated.

(2)**] SECTION,** "HOV lane" means a high occupancy vehicle lane, the use of which is restricted by a traffic control device during specified times to vehicles carrying at least a specified number of occupants.

[(3) "Plug–in vehicle" means a motor vehicle that:

(i) Is made by a manufacturer;

(ii) Is manufactured primarily for use on public streets, roads, and highways;

(iii) Has not been modified from original manufacturer specifications;

(iv) Is rated at not more than 8,500 pounds unloaded gross vehicle weight;

(v) Has a maximum speed capability of at least 65 miles per hour; and

(vi) Is propelled to a significant extent by an electric motor that draws electricity from a battery that:

1. Has a capacity of not less than 4 kilowatt–hours for 4–wheeled motor vehicles and not less than 2.5 kilowatt–hours for 2–wheeled or 3–wheeled motor vehicles; and

2. Is capable of being recharged from an external source of electricity.**]**

(b) **THIS SECTION APPLIES ONLY TO A PLUG–IN ELECTRIC DRIVE VEHICLE THAT HAS A MAXIMUM SPEED CAPABILITY OF AT LEAST 65 MILES PER HOUR.**

(C) Whenever the State Highway Administration designates a portion of a highway as an HOV lane, the HOV lane may be used at all times by plug–in **ELECTRIC DRIVE** vehicles that have obtained a permit from the Administration under this section, regardless of the number of passengers in the vehicle.

[(c)**] (D)** (1) The Administration, the State Highway Administration, and the Department of State Police shall consult to design a permit to designate a vehicle as a plug–in **ELECTRIC DRIVE** vehicle authorized to use an HOV lane.

(2) The Administration may charge a fee, not to exceed $20, for issuing a permit under this section.

(3) The Administration, on the recommendation of the State Highway Administration, may limit the number of permits issued to ensure HOV lane operations are not degraded to an unacceptable level.

[(d)**] (E)** On or before January 1 of each year, the Administration and the State Highway Administration jointly shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the effect of the use of the plug–in **ELECTRIC DRIVE** vehicle permits issued under this section on the operation of HOV lanes in the State.

Chapter 491 of the Acts of 2010

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of **[**3**] 7** years and, at the end of September 30, **[**2013**] 2017**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 492 of the Acts of 2010

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of **[**3**] 7** years and, at the end of September 30, **[**2013**] 2017**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 400 of the Acts of 2011

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(b) There is a Maryland Electric Vehicle Infrastructure Council.

(h) (1) On or before **[**January 1, 2012**] DECEMBER 1, 2013 AND DECEMBER 1, 2014**, the Council shall submit **[**an interim report**] INTERIM REPORTS** of its work and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.

(2) On or before **[**December 1, 2012**] JUNE 30, 2015**, the Council shall submit a final report of its work and recommendations to the Governor and, subject to § 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, 2011. It shall remain effective for a period of **[**2**] 4** years and, at the end of June 30, **[**2013**] 2015**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 401 of the Acts of 2011

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(b) There is a Maryland Electric Vehicle Infrastructure Council.

(h) (1) On or before **[**January 1, 2012**] DECEMBER 1, 2013 AND DECEMBER 1, 2014**, the Council shall submit **[**an interim report**] INTERIM REPORTS** of its work and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.

(2) On or before **[**December 1, 2012**] JUNE 30, 2015**, the Council shall submit a final report of its work and recommendations to the Governor and, subject to § 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, 2011. It shall remain effective for a period of **[**2**] 4** years and, at the end of June 30, **[**2013**] 2015**, 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 shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 65

(House Bill 836)

AN ACT concerning

Vehicle Laws – Electric Vehicles

FOR the purpose of altering and harmonizing certain variations of the defined term "plug–in electric drive vehicle" as that term applies to planning by a utility for the availability and reliability of electric supply, excise tax credits, and exemptions allowing the use of high occupancy vehicle lanes regardless of the number of passengers; clarifying the application of the excise tax credit for plug–in electric drive vehicles; clarifying the application of and extending the termination date for the exemption allowing the use of high occupancy vehicle lanes by plug–in electric drive vehicles regardless of the number of passengers; altering the deadlines for the reporting requirements for the Maryland Electric Vehicle Infrastructure Council; extending the termination date for the Council; and generally relating to electric vehicles.

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–616(p)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–616(p)(5)(xvi)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to
Article – Transportation
Section 11–145.1

Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–815 and 25–108
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 491 of the Acts of the General Assembly of 2010
Section 2

BY repealing and reenacting, with amendments,
Chapter 492 of the Acts of the General Assembly of 2010
Section 2

BY repealing and reenacting, without amendments,
Chapter 400 of the Acts of the General Assembly of 2011
Section 1(b)

BY repealing and reenacting, with amendments,
Chapter 400 of the Acts of the General Assembly of 2011
Section 1(h) and 2

BY repealing and reenacting, without amendments,
Chapter 401 of the Acts of the General Assembly of 2011
Section 1(b)

BY repealing and reenacting, with amendments,
Chapter 401 of the Acts of the General Assembly of 2011
Section 1(h) and 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

10–616.

(p) (1) Except as provided in paragraphs (2) through (5) of this subsection, a custodian may not knowingly disclose a public record of the Motor Vehicle Administration containing personal information.

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(xvi) for use by an electric company, as defined in § 1–101 of the Public Utilities Article, but only:

1. information describing a plug–in **ELECTRIC DRIVE** vehicle, as defined in § **[**25–108**] 11–145.1** of the Transportation Article, and identifying the address of the registered owner of the plug–in vehicle;

2. for use in planning for the availability and reliability of the electric power supply; and

3. if the information is not:

A. published or redisclosed, including redisclosed to an affiliate as defined in § 7–501 of the Public Utilities Article; or

B. used for marketing or solicitation purposes; and

Article – Transportation

11–145.1.

(A) "PLUG–IN ELECTRIC DRIVE VEHICLE" MEANS A MOTOR VEHICLE THAT:

(1) IS MADE BY A MANUFACTURER;

(2) IS MANUFACTURED PRIMARILY FOR USE ON PUBLIC STREETS, ROADS, AND HIGHWAYS;

(3) IS RATED AT NOT MORE THAN 8,500 POUNDS UNLOADED GROSS VEHICLE WEIGHT;

(4) HAS A MAXIMUM SPEED CAPABILITY OF AT LEAST 55 MILES PER HOUR; AND

(5) IS PROPELLED TO A SIGNIFICANT EXTENT BY AN ELECTRIC MOTOR THAT DRAWS ELECTRICITY FROM A BATTERY THAT:

(I) HAS A CAPACITY OF NOT LESS THAN 4 KILOWATT–HOURS FOR 4–WHEELED MOTOR VEHICLES AND NOT LESS THAN 2.5 KILOWATT–HOURS FOR 2–WHEELED OR 3–WHEELED MOTOR VEHICLES; AND

(II) IS CAPABLE OF BEING RECHARGED FROM AN EXTERNAL SOURCE OF ELECTRICITY.

(B) "PLUG–IN ELECTRIC DRIVE VEHICLE" INCLUDES A QUALIFYING VEHICLE THAT HAS BEEN MODIFIED FROM ORIGINAL MANUFACTURER SPECIFICATIONS.

13–815.

(a) **[**(1)**]** In this **[**section the following words have the meanings indicated.

(2) "Excise**] SECTION, "EXCISE** tax" means the tax imposed under § 13–809 of this subtitle.

[(3) "Qualified plug–in electric drive vehicle" means a motor vehicle that:

(i) Is made by a manufacturer;

(ii) Is manufactured primarily for use on public streets, roads, and highways;

(iii) Has not been modified from original manufacturer specifications;

(iv) Is acquired for use or lease by the taxpayer and not for resale;

(v) Is rated at not more than 8,500 pounds unloaded gross vehicle weight;

(vi) Has a maximum speed capability of at least 55 miles per hour;

(vii) Is propelled to a significant extent by an electric motor that draws electricity from a battery that:

1. For a 4–wheeled motor vehicle, has a capacity of not less than 4 kilowatt–hours;

2. For a 2–wheeled or 3–wheeled motor vehicle, has a capacity of not less than 2.5 kilowatt–hours; and

3. Is capable of being recharged from an external source of electricity; and

(viii) Is titled by the taxpayer on or after October 1, 2010, but before July 1, 2013.**]**

(b) **THIS SECTION APPLIES ONLY TO A PLUG–IN ELECTRIC DRIVE VEHICLE THAT:**

(1) HAS NOT BEEN MODIFIED FROM ORIGINAL MANUFACTURER SPECIFICATIONS;

(2) IS ACQUIRED FOR USE OR LEASE BY THE TAXPAYER AND NOT FOR RESALE; AND

(3) IS TITLED BY THE TAXPAYER ON OR AFTER OCTOBER 1, 2010, BUT BEFORE JULY 1, 2013.

(C) (1) A credit is allowed against the excise tax imposed for a **[**qualified**]** plug–in electric drive vehicle.

(2) Subject to the limitations under subsections (c) through (e) of this section, the credit allowed under this section equals 100% of the excise tax imposed for a vehicle.

[(c)**] (D)** The credit allowed under this section may not exceed $2,000.

[(d)**] (E)** The credit allowed under this section is limited to the acquisition of:

(1) One vehicle per individual; and

(2) 10 vehicles per business entity.

[(e)**] (F)** A credit may not be claimed under this section:

(1) For a vehicle unless the vehicle is registered in the State;

(2) Unless the manufacturer has already conformed to any applicable State or federal laws or regulations governing clean–fuel vehicle or electric vehicle purchases applicable during the calendar year in which the vehicle is titled; or

(3) For a vehicle that was initially registered in another state.

[(f)**] (G)** The Motor Vehicle Administration shall administer the credit under this section.

25–108.

(a) **[**(1)**]** In this **[**section the following words have the meanings indicated.

(2)**]** **SECTION,** "HOV lane" means a high occupancy vehicle lane, the use of which is restricted by a traffic control device during specified times to vehicles carrying at least a specified number of occupants.

[(3) "Plug–in vehicle" means a motor vehicle that:

(i) Is made by a manufacturer;

(ii) Is manufactured primarily for use on public streets, roads, and highways;

(iii) Has not been modified from original manufacturer specifications;

(iv) Is rated at not more than 8,500 pounds unloaded gross vehicle weight;

(v) Has a maximum speed capability of at least 65 miles per hour; and

(vi) Is propelled to a significant extent by an electric motor that draws electricity from a battery that:

1. Has a capacity of not less than 4 kilowatt–hours for 4–wheeled motor vehicles and not less than 2.5 kilowatt–hours for 2–wheeled or 3–wheeled motor vehicles; and

2. Is capable of being recharged from an external source of electricity.**]**

(b) **THIS SECTION APPLIES ONLY TO A PLUG–IN ELECTRIC DRIVE VEHICLE THAT HAS A MAXIMUM SPEED CAPABILITY OF AT LEAST 65 MILES PER HOUR.**

(C) Whenever the State Highway Administration designates a portion of a highway as an HOV lane, the HOV lane may be used at all times by plug–in **ELECTRIC DRIVE** vehicles that have obtained a permit from the Administration under this section, regardless of the number of passengers in the vehicle.

[(c)**] (D)** (1) The Administration, the State Highway Administration, and the Department of State Police shall consult to design a permit to designate a vehicle as a plug–in **ELECTRIC DRIVE** vehicle authorized to use an HOV lane.

(2) The Administration may charge a fee, not to exceed $20, for issuing a permit under this section.

(3) The Administration, on the recommendation of the State Highway Administration, may limit the number of permits issued to ensure HOV lane operations are not degraded to an unacceptable level.

[(d)**] (E)** On or before January 1 of each year, the Administration and the State Highway Administration jointly shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the effect of the use of the plug–in **ELECTRIC DRIVE** vehicle permits issued under this section on the operation of HOV lanes in the State.

Chapter 491 of the Acts of 2010

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of **[**3**] 7** years and, at the end of September 30, **[**2013**] 2017**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 492 of the Acts of 2010

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010. It shall remain effective for a period of **[**3**] 7** years and, at the end of September 30, **[**2013**] 2017**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 400 of the Acts of 2011

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(b) There is a Maryland Electric Vehicle Infrastructure Council.

(h) (1) On or before **[**January 1, 2012**] DECEMBER 1, 2013 AND DECEMBER 1, 2014**, the Council shall submit **[**an interim report**] INTERIM REPORTS** of its work and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.

(2) On or before **[**December 1, 2012**] JUNE 30, 2015**, the Council shall submit a final report of its work and recommendations to the Governor and, subject to § 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, 2011. It shall remain effective for a period of **[**2**] 4** years and, at the end of June 30, **[**2013**] 2015**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 401 of the Acts of 2011

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(b) There is a Maryland Electric Vehicle Infrastructure Council.

(h) (1) On or before **[**January 1, 2012**]** **DECEMBER 1, 2013 AND DECEMBER 1, 2014**, the Council shall submit **[**an interim report**]** **INTERIM REPORTS** of its work and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.

(2) On or before **[**December 1, 2012**]** **JUNE 30, 2015**, the Council shall submit a final report of its work and recommendations to the Governor and, subject to § 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, 2011. It shall remain effective for a period of **[**2**]** **4** years and, at the end of June 30, **[**2013**]** **2015**, 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 shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 66

(Senate Bill 621)

AN ACT concerning

Vehicles Laws – Emergency Vehicles – Motorcades and Escorts

FOR the purpose of authorizing the driver of certain emergency vehicles to exercise certain privileges while performing certain motorcade or escort duties; authorizing certain emergency vehicles to travel through any jurisdiction in the State as necessary to perform and return from motorcade or escort duty; requiring a jurisdiction that employs a driver who travels through another jurisdiction while performing or returning from motorcade or escort duty to provide certain notice to the other jurisdiction; prohibiting the driver of an emergency vehicle from using certain equipment while returning from motorcade or escort duty; and generally relating to the performance of motorcade or escort duty by an emergency vehicle.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–118
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–106
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

11–118.

"Emergency vehicle" means any of the following vehicles that are designated by the Administration as entitled to the exemptions and privileges set forth in the Maryland Vehicle Law for emergency vehicles:

(1) Vehicles of federal, State, or local law enforcement agencies;

(2) Vehicles of volunteer fire companies, rescue squads, fire departments, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Fire and Rescue Institute;

(3) State vehicles used in response to oil or hazardous materials spills;

(4) State vehicles designated for emergency use by the Commissioner of Correction;

(5) Ambulances; and

(6) Special vehicles funded or provided by federal, State, or local government and used for emergency or rescue purposes in this State.

21–106.

(a) Subject to the conditions stated in this section**[**, the**]:**

(1) THE driver of an emergency vehicle registered in any state may exercise the privileges set forth in this section while:

[(1)**]** **(I)** Responding to an emergency call;

[(2)**]** **(II)** Pursuing a violator or suspected violator of the law; or

[(3)**]** **(III)** Responding to, but not while returning from, a fire alarm**[.]; AND**

(2) THE DRIVER OF AN EMERGENCY VEHICLE REGISTERED IN THE STATE OR A LOCAL JURISDICTION IN THE STATE MAY EXERCISE THE PRIVILEGES SET FORTH IN THIS SECTION WHILE PERFORMING MOTORCADE OR ESCORT DUTY IF THE MOTORCADE OR ESCORT DUTY INVOLVES:

(I) HOMELAND SECURITY;

(II) A FUNERAL;

(III) A DIGNITARY; OR

(IV) FACILITATING THE SAFE MOVEMENT OF VEHICLES OR PEDESTRIANS THAT ARE OR WILL BE NEAR THE MOTORCADE OR ESCORT.

(b) Under the circumstances stated in subsection (a) of this section, the driver of an emergency vehicle may:

(1) Park or stand without regard to the other provisions of this title;

(2) Pass a red or stop signal, a stop sign, or a yield sign, but only after slowing down as necessary for safety;

(3) Exceed any maximum speed limit, but only so long as the driver does not endanger life or property; **[**and**]**

(4) Disregard any traffic control device or regulation governing direction of movement or turning in a specified direction**; AND**

(5) TRAVEL THROUGH ANY LOCAL JURISDICTION IN THE STATE AS NECESSARY TO PERFORM AND RETURN FROM MOTORCADE OR ESCORT DUTY.

(c) (1) Subject to paragraph (2) of this subsection, the privileges set forth in this section apply only while the emergency vehicle is using audible and visual signals that meet the requirements of § 22–218 of this article, except that an emergency vehicle operated as a police vehicle need not be equipped with or display the visual signals.

(2) The privileges set forth in subsection (b)(1) of this section apply only while the emergency vehicle is using visual signals that meet the requirements of § 22–218 of this article.

(3) (i) The driver of an emergency vehicle may not use flashing lights or a bell, siren, or exhaust whistle while returning from an emergency call **[**or fire**], FIRE** alarm, **OR MOTORCADE OR ESCORT,** except that fire apparatus carrying standing firemen may use flashing lights that are visible only to the rear.

(ii) The driver of an emergency vehicle, while parking or backing the emergency vehicle, may use flashing lights within 100 feet of the entrance ramp to a:

1. Fire station; or

2. Rescue station.

(4) BEFORE EXERCISING THE PRIVILEGES SET FORTH IN SUBSECTION (B)(5) OF THIS SECTION, THE JURISDICTION THAT EMPLOYS THE DRIVER OF A MOTORCADE OR ESCORT SHALL PROVIDE NOTICE OF THE MOTORCADE OR ESCORT TO ANY JURISDICTION THAT THE DRIVER WILL ENTER WHILE PERFORMING OR RETURNING FROM THE MOTORCADE OR ESCORT DUTY.

(d) This section does not relieve the driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 67

(Senate Bill 622)

AN ACT concerning

Corporations and Associations – Document Filing and Processing

FOR the purpose of altering the definition of "electronic transmission", for purposes of provisions of law governing business entities, to clarify that it includes electronic mail, facsimile transmission, and Internet transmission; clarifying the authority of the State Department of Assessments and Taxation to accept documents that are filed for record by electronic transmission; repealing certain

obsolete provisions of law relating to filing documents by means of a facsimile device; authorizing the Department, under certain circumstances, to accept certain documents or drafts of certain documents for ~~approval~~ review of the documents' sufficiency before the documents are filed with the Department; authorizing the Department to adopt regulations to administer the preclearance process; establishing a certain processing fee for preclearance of certain documents and drafts of certain documents; requiring the fees collected to be credited to a certain fund; establishing a certain fee for processing certain documents on a certain expedited basis; requiring the Department, under certain circumstances, to process certain documents within a certain period of time after the documents are received; requiring an entity to take certain actions if the Department waives the requirement that the written consent of the entity's resident agent must be filed with the Department; establishing when a certain consent shall be effective; making certain stylistic, conforming, and clarifying changes; defining certain terms; repealing a certain definition; providing for the construction of this Act; and generally relating to filing and processing business entity documents.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 1–101, 1–201, 1–203, 1–203.2, and 1–208
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 – Corporations and Associations

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(b) "Address" means the post office address, and includes street and number, if any, county or municipal area, and state and, if outside the United States, country.

(c) "Articles of transfer" means articles of sale, articles of lease, articles of asset exchange, or articles of transfer.

(d) "Assets" means any tangible, intangible, real, or personal property or other assets, including goodwill and franchises.

(e) "Business trust" means an unincorporated trust or association, including a common–law trust, a Massachusetts trust, a real estate investment trust as defined in § 8–101 of this article, a statutory trust as defined in § 12–101 of this article, and a foreign statutory trust as defined in § 12–101 of this article, that is engaged in

business and in which property is acquired, held, managed, administered, controlled, invested, or disposed of by trustees or the trust for the benefit and profit of any person who may become a holder of a transferable unit of beneficial interest in the trust.

(f) (1) "Charter" includes:

(i) A charter granted by special act of the General Assembly;

(ii) Articles or certificate of incorporation;

(iii) Amended articles or certificate of incorporation;

(iv) Articles of restatement, if approved as described in § 2–609 of this article;

(v) Articles of amendment and restatement; and

(vi) Articles or agreements of consolidation.

(2) "Charter" includes the documents referred to in paragraph (1) of this subsection, either as:

(i) Originally passed or accepted for record; or

(ii) As amended, corrected, or supplemented by special act of the General Assembly, articles of amendment, articles of amendment and reduction, articles of extension, articles supplementary, articles or agreements of merger, articles of revival, or a certificate of correction.

(g) "Charter document" means any:

(1) Document enumerated in subsection (f) of this section; and

(2) Articles of reduction, articles or agreements of transfer, articles of merger, articles of share exchange, articles of dissolution, and stock issuance statements.

(h) "Clerk of the court" means clerk of the circuit court for any county.

(i) "Convertible securities" includes:

(1) Shares of stock which by their terms are convertible into shares of stock of one or more classes; and

(2) Obligations which by their terms are convertible into shares of stock of one or more classes.

(j) "County" includes Baltimore City.

(k) "Department" means the State Department of Assessments and Taxation.

(l) "Director" means a member of the governing body of a corporation, whether designated as a director, trustee, or manager or by any other title.

(m) **(1)** "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that:

[(1)**]** **(I)** May be retained, retrieved, and reviewed by a recipient of the communication; and

[(2)**]** **(II)** May be reproduced directly in paper form by a recipient through an automated process.

(2) "ELECTRONIC TRANSMISSION" INCLUDES:

(I) ELECTRONIC MAIL;

(II) FACSIMILE TRANSMISSION; AND

(III) INTERNET TRANSMISSION.

(n) "Foreign corporation" means a corporation, association, or joint–stock company organized under the laws of the United States, another state of the United States, a territory, possession, or district of the United States, or a foreign country.

(o) "Mail" means to deposit in the United States mails postage prepaid.

(p) "Maryland corporation" means a corporation organized and existing under the laws of the State.

(q) "Municipal area" means any incorporated or unincorporated city, town, or village.

(r) "Person" includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(S) "PRECLEARANCE" MEANS ~~APPROVAL~~ REVIEW OF THE SUFFICIENCY OF A DOCUMENT OR A DRAFT OF A DOCUMENT LISTED IN § 1–203(B)(1) OR (4) OF THIS TITLE BY AN AUTHORIZED AGENT OF THE DEPARTMENT BEFORE THE DOCUMENT IS FILED WITH THE DEPARTMENT.

[(s)**] (T)** "Principal office" means:

(1) The place in this State filed or recorded with the Department as the principal office of a corporation or domestic limited partnership; or

(2) If there is no principal office designated, the main office of the corporation or domestic limited partnership in this State for the transaction of business.

[(t)**] (U)** "Resident agent" means an individual residing in this State or a Maryland corporation or limited liability company whose name, address, and designation as a resident agent are filed or recorded with the Department in accordance with the provisions of this article.

[(u)**] (V)** "Share exchange" means a transaction:

(1) In which a corporation acquires all the issued or all the outstanding shares of stock of one or more classes of another corporation by a stockholder vote under this article; and

(2) Which does not affect the corporate existence of either corporation.

(W) (1) "SIGN" MEANS:

(I) TO EXECUTE OR OTHERWISE ADOPT A NAME, SYMBOL, WORD, MARK, OR PROCESS; AND

(II) WITH THE PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD OR IDENTIFY ONESELF.

(2) "SIGN" INCLUDES:

(I) A MANUAL SIGNATURE;

(II) A FACSIMILE SIGNATURE;

(III) A CONFORMED SIGNATURE; AND

(IV) AN ELECTRONIC SIGNATURE.

[(v)**] (X)** "Stated capital" means the amount of stated capital determined in accordance with Title 2, Subtitle 3 of this article.

[(w)**] (Y)** "Stockholder" means a person who is a record holder of shares of stock in a corporation and includes a member of a corporation organized without stock.

[(x)**] (Z)** "Stockholder rights plan" means an agreement or other instrument under which a corporation issues rights to its stockholders that:

(1) May be exercised under specified circumstances to purchase stock or other securities of a corporation or any other person; and

(2) May become void if owned by a designated person or classes of persons under specified circumstances.

[(y)**] (AA)** "Successor" means:

(1) A new corporation formed by consolidation;

(2) A corporation or other entity surviving a merger;

(3) A corporation acquiring stock in a share exchange; or

(4) A vendee, lessee, or other transferee in a transfer of assets.

[(z)**] (BB)** "Transfer assets", "transfer its assets", and "transfer of assets" mean to sell, lease, exchange, or otherwise transfer all or substantially all of the assets of a corporation.

1–201.

(a) The Department may not accept for record any charter document of a Maryland corporation which does not conform with law. However, any document which purports to be acknowledged may be treated by the Department as properly acknowledged.

(b) The Department may not accept for record or filing any charter document, qualification, registration, change of resident agent or principal office, report, service of process or notice, or other document until all required recording, filing, organization and capitalization, and other special fees have been paid to the Department.

(c) (1) **[**In this subsection "facsimile device" means a machine that transmits, receives, and copies documents electronically or telephonically over telecommunication lines.

(2) As provided in § 1–203.2 of this subtitle, the**] THE** Department may accept documents that are filed for record by **[**means of a facsimile device**] ELECTRONIC TRANSMISSION**.

[(3)**] (2)** Documents filed for record by **[**means of a facsimile device**] ELECTRONIC TRANSMISSION** are subject to the regular filing fees and expedited **[**filing**] PROCESSING** fees provided in § 1–203 of this subtitle.

(D) (1) ON PAYMENT OF THE REGULAR PROCESSING FEE AND, IF APPLICABLE, EXPEDITED PROCESSING FEE PROVIDED IN § 1–203 OF THIS SUBTITLE, THE DEPARTMENT MAY ACCEPT FOR PRECLEARANCE ANY DOCUMENT OR DRAFT OF ANY DOCUMENT LISTED IN § 1–203(B)(1) OR (4) OF THIS SUBTITLE.

(2) THE DEPARTMENT MAY ADOPT REGULATIONS TO ADMINISTER THE PRECLEARANCE PROCESS.

1–203.

(a) In addition to any organization and capitalization fee required under § 1–204 of this subtitle, subject to subsection (c) of this section, the Department shall collect the fees specified in subsection (b) of this section.

(b) (1) Except as provided in paragraph (11) of this subsection, for each of the following documents, the nonrefundable processing fee is $100:

Document
Articles of incorporation
Articles of amendment
Articles of extension
Articles of restatement of charter
Articles of amendment and restatement
Articles supplementary
Articles of share exchange
Articles of consolidation, merger, or transfer
Articles of dissolution
Articles of revival for stock corporation
Articles of revival for nonstock corporation

(2) For each of the following documents, the nonrefundable processing fee is as indicated:

(i) Notice of change of address of principal office $25

(ii) Notice of change of name or address of resident agent ... $25, up to a maximum of $30,000 for a bulk filing

(iii) Certificate of correction $25

(iv) Any other documents $25

(3) (i) For each of the following documents which are filed but not recorded, the nonrefundable processing fee is as indicated:

Reservation of a corporate, limited partnership, limited liability partnership or limited liability company name	$25
Original registration of name of a foreign corporation to end of calendar year	$100
Renewal of registration of name of a foreign corporation for one calendar year	$100
Documents in connection with the qualification of a foreign corporation to do intrastate business in this State	$100
Application for registration of a foreign limited partnership, a foreign limited liability partnership, or a foreign limited liability company	$100
Other documents	$6

(ii) For each of the following documents which are filed but not recorded, the filing fee is as indicated:

Annual report of a Maryland corporation, except a charitable or benevolent institution, nonstock corporation, savings and loan corporation, credit union, family farm, and banking institution	$300
Annual report of a foreign corporation subject to the jurisdiction of this State, except a national banking association, savings and loan association, credit union, nonstock corporation, and charitable and benevolent institution	$300
Annual report of a Maryland savings and loan association, banking institution, or credit union or of a foreign savings and loan association, national banking association, or credit union that is subject to the jurisdiction of this State	$300
Annual report of a Maryland limited liability company, limited liability partnership, limited partnership, or of a foreign limited liability company, foreign limited liability partnership, or foreign limited partnership, except a family farm	$300
Annual report of a business trust	$300
Annual report of a real estate investment trust or foreign statutory trust doing business in this State	$300
Annual report of a family farm	$100

(4) For each of the following documents recorded or filed the nonrefundable processing fee is $100:

(i) Certificate of limited partnership, certificate of limited liability partnership, articles of organization of a limited liability company, certificate

of trust of a business trust, including certificates of amendment and certificates of cancellation, certificates of reinstatement, and articles of reinstatement; and

(ii) Any statement filed by a partnership under Title 9A of this article.

(5) For issuing each of the following certificates, the nonrefundable processing fee is as indicated:

Type of Instrument	Special Fee
Certificate of status of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company of this State or of a foreign corporation, foreign partnership, foreign limited partnership, foreign limited liability partnership, or foreign limited liability company	$20
Certified list of the charter papers of a corporation of this State or any certificates of a limited partnership, limited liability partnership, or a limited liability company of this State recorded or filed with the Department	$20
Certificate of compliance by a foreign corporation, foreign limited partnership, foreign limited liability partnership, or foreign limited liability company with requirements of law in respect of qualification or registration	$20
Certificate of withdrawal of registration or qualification	$20
Certificate of any paper recorded or filed in the Department's office	$20

(6) For a duplicate of a certificate mentioned in paragraph (5) of this subsection which is issued at the same time as the original, the fee is $1, and for a copy of any other paper recorded or filed with the Department, the fee is $1 per page.

(7) (i) For acceptance of service of process or notice on the Department, the Department shall charge a fee of $50.

(ii) Each county and Baltimore City is exempt from the fee under subparagraph (i) of this paragraph.

(8) For processing each of the following documents on an expedited basis, the additional fee is as indicated:

RECORDING ANY DOCUMENT, INCLUDING FINANCING STATEMENTS, OR SUBMITTING FOR PRECLEARANCE ANY DOCUMENT LISTED IN PARAGRAPH (1) OR (4) OF THIS SUBSECTION, IF PROCESSING UNDER § 1–203.2(B)(1) OF THIS SUBTITLE IS REQUESTED	**$425**
Recording any document, including financing statements**, OR SUBMITTING FOR PRECLEARANCE ANY DOCUMENT LISTED**	

IN PARAGRAPH (1) OR (4) OF THIS SUBSECTION, IF PROCESSING UNDER § 1–203.2(B)(1) IS NOT REQUESTED $50

Certificate of status of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or a name reservation $20

A copy of any document recorded or filed with the Department, or a corporate abstract $20

Application for a ground rent redemption or a ground rent extinguishment, or payment of a redemption or extinguishment amount to the former owner of the ground rent $50

(9) A nonrefundable processing fee for a request by paper document for an extension of the date for submitting an annual report under § 14–704 of the Tax – Property Article is $20.

(10) A nonrefundable processing fee for return of an original document is $5.

(11) A nonrefundable processing fee for articles of incorporation of a nonstock corporation that is organized to operate as a not–for–profit entity under § 501(c)(3), (4), or (6) of the Internal Revenue Code is $150.

(12) A fee for the nonpayment of a check or other negotiable instrument that was presented to the Department as payment for any of the other fees imposed under this section is $30.

(13) A NONREFUNDABLE PROCESSING FEE FOR PRECLEARANCE OF A DOCUMENT OR DRAFT OF A DOCUMENT LISTED IN PARAGRAPH (1) OR (4) OF THIS SUBSECTION IS $275.

(c) For each fee identified under subsection (b) of this section as nonrefundable, the Department shall adopt regulations to specify the conditions under which the fee shall be nonrefundable and the conditions under which the fee may be applied to a resubmission of a document for filing, recording, or processing.

(d) The **[**fee**]** **FEES** collected under subsection **[**(b)(10)**]** **(B)(8), (10), AND (13)** of this section shall be credited to the fund established under § 1–203.3 of this subtitle.

(e) Of the $150 collected under subsection (b)(11) of this section, $50 shall be credited to the Maryland Not–For–Profit Development Center Program Fund established under § 5–1204 of the Economic Development Article.

1–203.2.

(a) **[**The**] ON PAYMENT OF THE FEE PROVIDED IN § 1–203(B)(8) OF THIS SUBTITLE, THE** Department shall process documents on an expedited basis **[**upon the payment of the fee provided in § 1–203(b)(8) of this subtitle**] AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**.

(b) **(1) THE DEPARTMENT SHALL PROCESS DOCUMENTS FILED WITH THE DEPARTMENT AT LEAST 2 HOURS BEFORE THE DEPARTMENT'S CLOSE OF BUSINESS WITHIN 2 HOURS AFTER THE DOCUMENTS ARE RECEIVED.**

(2) [The Department shall, to**] TO** the extent practicable, **THE DEPARTMENT SHALL** process **ALL OTHER** documents **[**filed in person on an expedited basis**]** on the same day that the documents are received.

(c) The Department shall adopt regulations governing the **MANNER OF FILING AND** processing of documents on an expedited basis, including reasonable limitations on filing documents of unusual volume or length.

[(d) The fees collected under § 1–203(b)(8) of this subtitle shall be credited to the fund established under § 1–203.3 of this subtitle.**]**

1–208.

(a) Notwithstanding any other provision of this title, an entity that is required to have a resident agent may not designate a person as a resident agent without first obtaining the person's written consent.

(b) (1) **(I) [**An**] UNLESS WAIVED BY THE DEPARTMENT, AN** entity shall file a resident agent's written consent with the Department.

[(2)**] (II)** The consent shall be effective **[**upon**] ON** acceptance by the Department.

(2) (I) IF THE FILING OF A RESIDENT AGENT'S WRITTEN CONSENT IS WAIVED BY THE DEPARTMENT, AN ENTITY SHALL:

1. CERTIFY TO THE DEPARTMENT THAT THE WRITTEN CONSENT OF THE RESIDENT AGENT HAS BEEN OBTAINED;

2. MAINTAIN A COPY OF THE WRITTEN CONSENT IN ITS RECORDS; AND

3. PROVIDE A COPY OF THE WRITTEN CONSENT TO THE DEPARTMENT ON REQUEST.

(II) THE CONSENT SHALL BE EFFECTIVE ON CERTIFICATION TO THE DEPARTMENT THAT THE CONSENT HAS BEEN OBTAINED.

(c) Subsections (a) and (b) of this section do not apply to resident agents designated before October 1, 1998.

(d) A person designated a resident agent may resign without paying the fee under § 1–203(b)(2) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to invalidate or otherwise affect any filings made with the State Department of Assessments and Taxation 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, April 9, 2013.

Chapter 68

(House Bill 702)

AN ACT concerning

Corporations and Associations – Document Filing and Processing

FOR the purpose of altering the definition of "electronic transmission", for purposes of provisions of law governing business entities, to clarify that it includes electronic mail, facsimile transmission, and Internet transmission; clarifying the authority of the State Department of Assessments and Taxation to accept documents that are filed for record by electronic transmission; repealing certain obsolete provisions of law relating to filing documents by means of a facsimile device; authorizing the Department, under certain circumstances, to accept certain documents or drafts of certain documents for ~~approval~~ review of the documents' sufficiency before the documents are filed with the Department; authorizing the Department to adopt regulations to administer the preclearance process; establishing a certain processing fee for preclearance of certain documents and drafts of certain documents; requiring the fees collected to be credited to a certain fund; establishing a certain fee for processing certain documents on a certain expedited basis; requiring the Department, under certain circumstances, to process certain documents within a certain period of time after the documents are received; requiring an entity to take certain actions if the Department waives the requirement that the written consent of the entity's resident agent must be filed with the Department; establishing when a certain consent shall be effective; making certain stylistic, conforming,

and clarifying changes; defining certain terms; repealing a certain definition; providing for the construction of this Act; and generally relating to filing and processing business entity documents.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 1–101, 1–201, 1–203, 1–203.2, and 1–208
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 – Corporations and Associations

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(b) "Address" means the post office address, and includes street and number, if any, county or municipal area, and state and, if outside the United States, country.

(c) "Articles of transfer" means articles of sale, articles of lease, articles of asset exchange, or articles of transfer.

(d) "Assets" means any tangible, intangible, real, or personal property or other assets, including goodwill and franchises.

(e) "Business trust" means an unincorporated trust or association, including a common–law trust, a Massachusetts trust, a real estate investment trust as defined in § 8–101 of this article, a statutory trust as defined in § 12–101 of this article, and a foreign statutory trust as defined in § 12–101 of this article, that is engaged in business and in which property is acquired, held, managed, administered, controlled, invested, or disposed of by trustees or the trust for the benefit and profit of any person who may become a holder of a transferable unit of beneficial interest in the trust.

(f) (1) "Charter" includes:

(i) A charter granted by special act of the General Assembly;

(ii) Articles or certificate of incorporation;

(iii) Amended articles or certificate of incorporation;

(iv) Articles of restatement, if approved as described in § 2–609 of this article;

(v) Articles of amendment and restatement; and

(vi) Articles or agreements of consolidation.

(2) "Charter" includes the documents referred to in paragraph (1) of this subsection, either as:

(i) Originally passed or accepted for record; or

(ii) As amended, corrected, or supplemented by special act of the General Assembly, articles of amendment, articles of amendment and reduction, articles of extension, articles supplementary, articles or agreements of merger, articles of revival, or a certificate of correction.

(g) "Charter document" means any:

(1) Document enumerated in subsection (f) of this section; and

(2) Articles of reduction, articles or agreements of transfer, articles of merger, articles of share exchange, articles of dissolution, and stock issuance statements.

(h) "Clerk of the court" means clerk of the circuit court for any county.

(i) "Convertible securities" includes:

(1) Shares of stock which by their terms are convertible into shares of stock of one or more classes; and

(2) Obligations which by their terms are convertible into shares of stock of one or more classes.

(j) "County" includes Baltimore City.

(k) "Department" means the State Department of Assessments and Taxation.

(l) "Director" means a member of the governing body of a corporation, whether designated as a director, trustee, or manager or by any other title.

(m) **(1)** "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that:

[(1)**]** **(I)** May be retained, retrieved, and reviewed by a recipient of the communication; and

[(2)**]** **(II)** May be reproduced directly in paper form by a recipient through an automated process.

(2) "ELECTRONIC TRANSMISSION" INCLUDES:

(I) ELECTRONIC MAIL;

(II) FACSIMILE TRANSMISSION; AND

(III) INTERNET TRANSMISSION.

(n) "Foreign corporation" means a corporation, association, or joint–stock company organized under the laws of the United States, another state of the United States, a territory, possession, or district of the United States, or a foreign country.

(o) "Mail" means to deposit in the United States mails postage prepaid.

(p) "Maryland corporation" means a corporation organized and existing under the laws of the State.

(q) "Municipal area" means any incorporated or unincorporated city, town, or village.

(r) "Person" includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(S) "PRECLEARANCE" MEANS ~~APPROVAL~~ REVIEW OF THE SUFFICIENCY OF A DOCUMENT OR A DRAFT OF A DOCUMENT LISTED IN § 1–203(B)(1) OR (4) OF THIS TITLE BY AN AUTHORIZED AGENT OF THE DEPARTMENT BEFORE THE DOCUMENT IS FILED WITH THE DEPARTMENT.

[(s)**]** **(T)** "Principal office" means:

(1) The place in this State filed or recorded with the Department as the principal office of a corporation or domestic limited partnership; or

(2) If there is no principal office designated, the main office of the corporation or domestic limited partnership in this State for the transaction of business.

[(t)**]** **(U)** "Resident agent" means an individual residing in this State or a Maryland corporation or limited liability company whose name, address, and designation as a resident agent are filed or recorded with the Department in accordance with the provisions of this article.

[(u)**] (V)** "Share exchange" means a transaction:

(1) In which a corporation acquires all the issued or all the outstanding shares of stock of one or more classes of another corporation by a stockholder vote under this article; and

(2) Which does not affect the corporate existence of either corporation.

(W) (1) "SIGN" MEANS:

(I) TO EXECUTE OR OTHERWISE ADOPT A NAME, SYMBOL, WORD, MARK, OR PROCESS; AND

(II) WITH THE PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD OR IDENTIFY ONESELF.

(2) "SIGN" INCLUDES:

(I) A MANUAL SIGNATURE;

(II) A FACSIMILE SIGNATURE;

(III) A CONFORMED SIGNATURE; AND

(IV) AN ELECTRONIC SIGNATURE.

[(v)**] (X)** "Stated capital" means the amount of stated capital determined in accordance with Title 2, Subtitle 3 of this article.

[(w)**] (Y)** "Stockholder" means a person who is a record holder of shares of stock in a corporation and includes a member of a corporation organized without stock.

[(x)**] (Z)** "Stockholder rights plan" means an agreement or other instrument under which a corporation issues rights to its stockholders that:

(1) May be exercised under specified circumstances to purchase stock or other securities of a corporation or any other person; and

(2) May become void if owned by a designated person or classes of persons under specified circumstances.

[(y)**] (AA)** "Successor" means:

(1) A new corporation formed by consolidation;

(2) A corporation or other entity surviving a merger;

(3) A corporation acquiring stock in a share exchange; or

(4) A vendee, lessee, or other transferee in a transfer of assets.

[(z)**] (BB)** "Transfer assets", "transfer its assets", and "transfer of assets" mean to sell, lease, exchange, or otherwise transfer all or substantially all of the assets of a corporation.

1–201.

(a) The Department may not accept for record any charter document of a Maryland corporation which does not conform with law. However, any document which purports to be acknowledged may be treated by the Department as properly acknowledged.

(b) The Department may not accept for record or filing any charter document, qualification, registration, change of resident agent or principal office, report, service of process or notice, or other document until all required recording, filing, organization and capitalization, and other special fees have been paid to the Department.

(c) (1) **[**In this subsection "facsimile device" means a machine that transmits, receives, and copies documents electronically or telephonically over telecommunication lines.

(2) As provided in § 1–203.2 of this subtitle, the**] THE** Department may accept documents that are filed for record by **[**means of a facsimile device**] ELECTRONIC TRANSMISSION**.

[(3)**] (2)** Documents filed for record by **[**means of a facsimile device**] ELECTRONIC TRANSMISSION** are subject to the regular filing fees and expedited **[**filing**] PROCESSING** fees provided in § 1–203 of this subtitle.

(D) (1) ON PAYMENT OF THE REGULAR PROCESSING FEE AND, IF APPLICABLE, EXPEDITED PROCESSING FEE PROVIDED IN § 1–203 OF THIS SUBTITLE, THE DEPARTMENT MAY ACCEPT FOR PRECLEARANCE ANY DOCUMENT OR DRAFT OF ANY DOCUMENT LISTED IN § 1–203(B)(1) OR (4) OF THIS SUBTITLE.

(2) THE DEPARTMENT MAY ADOPT REGULATIONS TO ADMINISTER THE PRECLEARANCE PROCESS.

1–203.

(a) In addition to any organization and capitalization fee required under § 1–204 of this subtitle, subject to subsection (c) of this section, the Department shall collect the fees specified in subsection (b) of this section.

(b) (1) Except as provided in paragraph (11) of this subsection, for each of the following documents, the nonrefundable processing fee is $100:

Document
Articles of incorporation
Articles of amendment
Articles of extension
Articles of restatement of charter
Articles of amendment and restatement
Articles supplementary
Articles of share exchange
Articles of consolidation, merger, or transfer
Articles of dissolution
Articles of revival for stock corporation
Articles of revival for nonstock corporation

(2) For each of the following documents, the nonrefundable processing fee is as indicated:

(i) Notice of change of address of principal office $25

(ii) Notice of change of name or address of resident agent ... $25, up to a maximum of $30,000 for a bulk filing

(iii) Certificate of correction $25

(iv) Any other documents $25

(3) (i) For each of the following documents which are filed but not recorded, the nonrefundable processing fee is as indicated:

Reservation of a corporate, limited partnership, limited liability partnership or limited liability company name	$25
Original registration of name of a foreign corporation to end of calendar year	$100
Renewal of registration of name of a foreign corporation for one calendar year	$100
Documents in connection with the qualification of a foreign corporation to do intrastate business in this State.....	$100
Application for registration of a foreign limited partnership, a foreign limited liability partnership, or a foreign limited liability company	$100
Other documents	$6

(ii) For each of the following documents which are filed but not recorded, the filing fee is as indicated:

Annual report of a Maryland corporation, except a charitable or benevolent institution, nonstock corporation, savings and loan corporation, credit union, family farm, and banking institution	$300
Annual report of a foreign corporation subject to the jurisdiction of this State, except a national banking association, savings and loan association, credit union, nonstock corporation, and charitable and benevolent institution	$300
Annual report of a Maryland savings and loan association, banking institution, or credit union or of a foreign savings and loan association, national banking association, or credit union that is subject to the jurisdiction of this State	$300
Annual report of a Maryland limited liability company, limited liability partnership, limited partnership, or of a foreign limited liability company, foreign limited liability partnership, or foreign limited partnership, except a family farm	$300
Annual report of a business trust	$300
Annual report of a real estate investment trust or foreign statutory trust doing business in this State	$300
Annual report of a family farm	$100

(4) For each of the following documents recorded or filed the nonrefundable processing fee is $100:

(i) Certificate of limited partnership, certificate of limited liability partnership, articles of organization of a limited liability company, certificate of trust of a business trust, including certificates of amendment and certificates of cancellation, certificates of reinstatement, and articles of reinstatement; and

(ii) Any statement filed by a partnership under Title 9A of this article.

(5) For issuing each of the following certificates, the nonrefundable processing fee is as indicated:

Type of Instrument	Special Fee
Certificate of status of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company of this State or of a foreign corporation, foreign partnership, foreign limited partnership, foreign limited liability partnership, or foreign limited liability company	$20
Certified list of the charter papers of a corporation of this State or any certificates of a limited partnership, limited liability	

partnership, or a limited liability company of this State recorded or filed with the Department $20

Certificate of compliance by a foreign corporation, foreign limited partnership, foreign limited liability partnership, or foreign limited liability company with requirements of law in respect of qualification or registration $20

Certificate of withdrawal of registration or qualification $20

Certificate of any paper recorded or filed in the Department's office..... $20

(6) For a duplicate of a certificate mentioned in paragraph (5) of this subsection which is issued at the same time as the original, the fee is $1, and for a copy of any other paper recorded or filed with the Department, the fee is $1 per page.

(7) (i) For acceptance of service of process or notice on the Department, the Department shall charge a fee of $50.

(ii) Each county and Baltimore City is exempt from the fee under subparagraph (i) of this paragraph.

(8) For processing each of the following documents on an expedited basis, the additional fee is as indicated:

RECORDING ANY DOCUMENT, INCLUDING FINANCING STATEMENTS, OR SUBMITTING FOR PRECLEARANCE ANY DOCUMENT LISTED IN PARAGRAPH (1) OR (4) OF THIS SUBSECTION, IF PROCESSING UNDER § 1–203.2(B)(1) OF THIS SUBTITLE IS REQUESTED $425

Recording any document, including financing statements**, OR SUBMITTING FOR PRECLEARANCE ANY DOCUMENT LISTED IN PARAGRAPH (1) OR (4) OF THIS SUBSECTION, IF PROCESSING UNDER § 1–203.2(B)(1) IS NOT REQUESTED** $50

Certificate of status of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or a name reservation $20

A copy of any document recorded or filed with the Department, or a corporate abstract..... $20

Application for a ground rent redemption or a ground rent extinguishment, or payment of a redemption or extinguishment amount to the former owner of the ground rent $50

(9) A nonrefundable processing fee for a request by paper document for an extension of the date for submitting an annual report under § 14–704 of the Tax – Property Article is $20.

(10) A nonrefundable processing fee for return of an original document is $5.

(11) A nonrefundable processing fee for articles of incorporation of a nonstock corporation that is organized to operate as a not–for–profit entity under § 501(c)(3), (4), or (6) of the Internal Revenue Code is $150.

(12) A fee for the nonpayment of a check or other negotiable instrument that was presented to the Department as payment for any of the other fees imposed under this section is $30.

(13) A NONREFUNDABLE PROCESSING FEE FOR PRECLEARANCE OF A DOCUMENT OR DRAFT OF A DOCUMENT LISTED IN PARAGRAPH (1) OR (4) OF THIS SUBSECTION IS $275.

(c) For each fee identified under subsection (b) of this section as nonrefundable, the Department shall adopt regulations to specify the conditions under which the fee shall be nonrefundable and the conditions under which the fee may be applied to a resubmission of a document for filing, recording, or processing.

(d) The **[**fee**]** **FEES** collected under subsection **[**(b)(10)**]** **(B)(8), (10), AND (13)** of this section shall be credited to the fund established under § 1–203.3 of this subtitle.

(e) Of the $150 collected under subsection (b)(11) of this section, $50 shall be credited to the Maryland Not–For–Profit Development Center Program Fund established under § 5–1204 of the Economic Development Article.

1–203.2.

(a) **[**The**]** **ON PAYMENT OF THE FEE PROVIDED IN § 1–203(B)(8) OF THIS SUBTITLE, THE** Department shall process documents on an expedited basis **[**upon the payment of the fee provided in § 1–203(b)(8) of this subtitle**]** **AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**.

(b) **(1) THE DEPARTMENT SHALL PROCESS DOCUMENTS FILED WITH THE DEPARTMENT AT LEAST 2 HOURS BEFORE THE DEPARTMENT'S CLOSE OF BUSINESS WITHIN 2 HOURS AFTER THE DOCUMENTS ARE RECEIVED.**

(2) **[**The Department shall, to**]** **TO** the extent practicable, **THE DEPARTMENT SHALL** process **ALL OTHER** documents **[**filed in person on an expedited basis**]** on the same day that the documents are received.

(c) The Department shall adopt regulations governing the **MANNER OF FILING AND** processing of documents on an expedited basis, including reasonable limitations on filing documents of unusual volume or length.

[(d) The fees collected under § 1–203(b)(8) of this subtitle shall be credited to the fund established under § 1–203.3 of this subtitle.**]**

1–208.

(a) Notwithstanding any other provision of this title, an entity that is required to have a resident agent may not designate a person as a resident agent without first obtaining the person's written consent.

(b) (1) **(I)** **[**An**]** **UNLESS WAIVED BY THE DEPARTMENT, AN** entity shall file a resident agent's written consent with the Department.

[(2)**]** **(II)** The consent shall be effective **[**upon**]** **ON** acceptance by the Department.

(2) (I) IF THE FILING OF A RESIDENT AGENT'S WRITTEN CONSENT IS WAIVED BY THE DEPARTMENT, AN ENTITY SHALL:

1. CERTIFY TO THE DEPARTMENT THAT THE WRITTEN CONSENT OF THE RESIDENT AGENT HAS BEEN OBTAINED;

2. MAINTAIN A COPY OF THE WRITTEN CONSENT IN ITS RECORDS; AND

3. PROVIDE A COPY OF THE WRITTEN CONSENT TO THE DEPARTMENT ON REQUEST.

(II) THE CONSENT SHALL BE EFFECTIVE ON CERTIFICATION TO THE DEPARTMENT THAT THE CONSENT HAS BEEN OBTAINED.

(c) Subsections (a) and (b) of this section do not apply to resident agents designated before October 1, 1998.

(d) A person designated a resident agent may resign without paying the fee under § 1–203(b)(2) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to invalidate or otherwise affect any filings made with the State Department of Assessments and Taxation 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, April 9, 2013.

Chapter 69

(Senate Bill 629)

AN ACT concerning

Alcoholic Beverages – Allegany County – Video Lottery Facility Sales and Consumption

FOR the purpose of creating in Allegany County a Class BWL–VLF (video lottery facility) beer, wine and liquor license and a Class BWL–VLC (concessionaire) beer, wine and liquor license; specifying that the Board of License Commissioners may issue a video lottery facility license for a video lottery facility that contains one or more food services facilities, bars, or lounges; specifying that a video lottery facility license may be issued to an individual or entity that meets certain requirements; providing that an applicant for the license need not meet a location, voting, or residency requirement; providing that the video lottery facility license authorizes the licensee to sell beer, wine, and liquor by the drink and by the bottle on the premises of the video lottery facility, for consumption anywhere in the facility or on grounds controlled by the licensee as defined in the video lottery facility license; authorizing the Board to issue a concessionaire license to one or more concessionaires operating in a video lottery facility; authorizing a concessionaire license holder to sell beer, wine, and liquor on the premises of the concessionaire for consumption anywhere in the video lottery facility or on grounds controlled by the video lottery facility licensee as defined in the video lottery facility license; specifying certain fees; specifying that an off–sale privilege is not conferred by a video lottery facility license or a concessionaire license; authorizing that beer, wine, and liquor purchased under a video lottery facility license or a concessionaire license may be taken anywhere in a video lottery facility or on grounds controlled by the video lottery facility licensee; specifying that a video lottery facility license and a concessionaire license authorize the playing of music and dancing; specifying certain days and hours of sale for the video lottery facility and concessionaire licenses; specifying that video lottery facility and concessionaire licenses and licensees are subject to all laws and regulations applicable to the sale of alcoholic beverages not inconsistent with this Act; providing for the application to certain persons of certain penalties and sanctions for violations occurring on certain premises; authorizing a person to consume alcoholic beverages on the licensed premises of a video lottery facility during certain hours of operation of the facility; specifying that the hours for the sale of alcoholic beverages under a video lottery facility license or concessionaire license are the same as the hours of operation for a video lottery facility; defining certain terms; <u>making this Act an emergency measure;</u> and generally relating to alcoholic beverages and video lottery facilities in Allegany County.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages
Section 6–201(a) and (b)(1) and (2), 11–304(a), and 11–501(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(b–1) and 11–501(d)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–304(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–23(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 2B – Alcoholic Beverages

6–201.

(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.

(2) The annual fee for this license is payable to the local collecting agent before any license is issued, for distribution as provided in this article.

(3) (i) Except in Montgomery County or in the case of a contrary provision in this subtitle, this license shall be issued, on approval of the application by the board of license commissioners in any county in which a license may be issued for the sale of beer, wine, and liquor, to the owner of any hotel which meets the following minimum provisions:

1. The hotel building shall be originally constructed for hotel purposes; be at least three stories in height; and contain at least one passenger elevator;

2. The hotel shall contain no less than 100 rooms for the accommodation of the public;

3. The hotel shall contain a dining room with facilities for preparing and serving regular meals for at least 125 persons at one seating; and

4. The capital investment in the hotel facility may not be less than $500,000.

(ii) The annual fee for this license is $2,000.

(b) (1) The provisions of this subsection apply only in Allegany County.

(2) (i) The Board of License Commissioners may issue Class B beer, wine and liquor (on–sale) licenses.

(ii) This license shall be issued for the exclusive use:

1. On the premises of a restaurant that is located within a hotel or motel establishment; or

2. If used in conjunction with a Class 7 micro–brewery license, on the premises of a restaurant only.

(iii) In addition to other county requirements provided for in this article:

1. The hotel or motel shall be an establishment having at least 100 bedrooms for public accommodation; and

2. The restaurant shall be an establishment:

A. Located in a permanent building with ample space and accommodations for preparing, serving, and selling meals to the public during business hours;

B. That 60 percent of its gross monthly revenue is derived from the sale of food;

C. That has waiter or waitress service to its customers who are seated at tables for dining; and

D. That is not considered to be a fast–food style facility.

(iv) This license authorizes the holder to sell beer, wine and liquor by the drink for consumption on the licensed premises only.

(v) This license does not have off–sale privileges.

(vi) The requirements for hours and days of sale are as provided under § 11–501(a) and (b) of this article.

(vii) The annual license fee is $800.

(viii) This license is exempt from any license population quota limitation.

(ix) Notwithstanding any law to the contrary, this license may not be transferred to a location other than the premises for which it was issued.

(B–1) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "CONCESSIONAIRE" MEANS A LESSEE, SUBLESSEE, OR ANY OTHER OPERATOR OF AN ESTABLISHMENT THAT:

1. ENGAGES IN THE DAILY SALE OF BEER, WINE, AND LIQUOR BY THE DRINK OR BY THE BOTTLE ON ITS PREMISES FOR CONSUMPTION ANYWHERE IN A VIDEO LOTTERY FACILITY; AND

2. IS OPERATED AS A CONCESSION INDEPENDENT OF THE CLASS BWL–VLF LICENSE.

(III) "VIDEO LOTTERY FACILITY" MEANS A FACILITY THAT HOLDS A LICENSE UNDER TITLE 9, SUBTITLE 1A OF THE STATE GOVERNMENT ARTICLE.

(2) (I) THERE IS A CLASS BWL–VLF (VIDEO LOTTERY FACILITY) BEER, WINE AND LIQUOR LICENSE.

(II) THE BOARD MAY ISSUE A CLASS BWL–VLF LICENSE FOR A VIDEO LOTTERY FACILITY THAT CONTAINS ONE OR MORE FOOD SERVICE FACILITIES, BARS, OR LOUNGES.

(III) THE CLASS BWL–VLF LICENSE MAY BE ISSUED TO AN INDIVIDUAL OR ENTITY THAT OWNS A VIDEO LOTTERY FACILITY AND HOLDS A LICENSE UNDER TITLE 9, SUBTITLE 1A OF THE STATE GOVERNMENT ARTICLE.

(IV) AN APPLICANT FOR A CLASS BWL–VLF LICENSE MAY NOT BE REQUIRED TO MEET ANY LOCATION, VOTING, OR RESIDENCY REQUIREMENT.

(V) A CLASS BWL–VLF LICENSE AUTHORIZES THE LICENSEE TO SELL BEER, WINE, AND LIQUOR BY THE DRINK AND BY THE BOTTLE ON THE PREMISES OF THE VIDEO LOTTERY FACILITY, FOR CONSUMPTION ANYWHERE IN THE VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY THE LICENSEE, AS DEFINED IN THE CLASS BWL–VLF LICENSE.

(3) (I) THERE IS A CLASS BWL–VLC (VIDEO LOTTERY CONCESSIONAIRE) BEER, WINE AND LIQUOR LICENSE.

(II) THE BOARD MAY ISSUE A CLASS BWL–VLC LICENSE TO ONE OR MORE CONCESSIONAIRES OPERATING IN THE VIDEO LOTTERY FACILITY.

(III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A CLASS BWL–VLC LICENSE AUTHORIZES THE LICENSEE TO SELL BEER, WINE, AND LIQUOR ON THE PREMISES OF THE CONCESSIONAIRE FOR CONSUMPTION ANYWHERE IN THE VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY THE CLASS BWL–VLF LICENSEE, AS DEFINED IN THE CLASS BWL–VLF LICENSE.

(4) (I) THE ANNUAL FEE FOR A CLASS BWL–VLF LICENSE IS $15,000.

(II) THE ANNUAL FEE FOR A CLASS BWL–VLC LICENSE IS $5,000.

(III) THE ANNUAL LICENSE FEE SHALL BE PAID TO THE BOARD ON OR BEFORE MAY 1 OF EACH YEAR.

(5) (I) AN OFF–SALE PRIVILEGE IS NOT CONFERRED BY A CLASS BWL–VLF LICENSE OR A CLASS BWL–VLC LICENSE.

(II) BEER, WINE, AND LIQUOR PURCHASED UNDER A CLASS BWL–VLF LICENSE OR A CLASS BWL–VLC LICENSE MAY BE TAKEN ANYWHERE IN A VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY THE CLASS BWL–VLF LICENSEE, AS DEFINED IN THE CLASS BWL–VLF LICENSE.

(6) A CLASS BWL–VLF LICENSE AND A CLASS BWL–VLC LICENSE AUTHORIZE:

(I) THE PLAYING OF MUSIC AND DANCING; AND

(II) THE SALE AND PROVISION OF BEER, WINE, AND LIQUOR THROUGHOUT THE VIDEO LOTTERY FACILITY AND GROUNDS CONTROLLED BY THE CLASS BWL–VLF LICENSEE DURING THOSE DAYS AND HOURS THAT THE VIDEO LOTTERY FACILITY IS OPEN FOR BUSINESS.

(7) CLASS BWL–VLF AND CLASS BWL–VLC LICENSES AND LICENSEES ARE SUBJECT TO ALL LAWS AND REGULATIONS APPLICABLE TO THE SALE OF ALCOHOLIC BEVERAGES NOT INCONSISTENT WITH THIS SUBSECTION.

(8) ANY PENALTY OR OTHER SANCTION THAT IS IMPOSED FOR A VIOLATION OF A REGULATION OF THE BOARD ON THE LICENSED PREMISES OF A CLASS BWL–VLC LICENSEE SHALL APPLY TO THE CONCESSIONAIRE THAT THE BOARD DETERMINES TO BE RESPONSIBLE FOR THE VIOLATION.

11–304.

(a) (1) Between 2 a.m. and 6 a.m. on any day, a person may not consume any alcoholic beverages on any premises open to the general public, any place of public entertainment, or any place at which setups or other component parts of mixed alcoholic drinks are sold under any license issued under the provisions of the Business Regulation Article, and an owner, operator or manager of the premises or places may not knowingly permit such consumption.

(2) Except as provided in this section, any person found consuming any alcoholic beverage on any premises open to the general public, and any owner, operator or manager of those premises or places who knowingly permits consumption between the hours provided by this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $50 and not less than $5.

(i) In Anne Arundel County the fine may not be more than $250.

(ii) In Worcester County the fine may not be more than $1,000.

(b) (1) **(I)** This subsection applies only in Allegany County.

(II) IN SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH AND PARAGRAPH (2) OF THIS SUBSECTION, "PREMISES" MEANS:

1. A RESTAURANT, TAVERN, HOTEL, CLUB, DANCE STUDIO, OR DISCO;

2. A PLACE OF PUBLIC ENTERTAINMENT;

3. A PLACE OPEN TO THE GENERAL PUBLIC; OR

4. A PLACE THAT IS LICENSED BY THE STATE OR THE COUNTY.

[(2)**]** **(III)** The prohibitions of **[**this subsection**]** **SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH AND PARAGRAPH (2) OF THIS SUBSECTION** apply after 1 a.m. on Sunday or between the hours of 1 a.m. and 7 a.m. on other days.

[(3) (i)**]** **(IV)** A person may not consume any alcoholic beverages on any:

1. Premises open to the general public;

2. Place operated as a club;

3. Place of public entertainment; or

4. Place at which setups or other component parts of mixed alcoholic drinks are sold under any license issued under the provisions of this article.

[(ii)**]** **(V)** An owner, operator, or manager of the premises may not permit that consumption.

[(4) (i)**]** **(2)** **(I)** A person may not possess or consume any alcoholic beverage on any premises which is not licensed under this article but which is open to the general public and is operated as a club, a place of public entertainment, or a place where setups or other component parts of mixed alcoholic drinks are sold.

(ii) An owner, operator, or manager of the premises may not permit that consumption or possession.

(3) (I) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBSECTION, A PERSON MAY CONSUME ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES OF A VIDEO LOTTERY FACILITY ONLY DURING THE HOURS OF OPERATION ESTABLISHED UNDER § 9–1A–23(A) OF THE STATE GOVERNMENT ARTICLE.

(II) A VIDEO LOTTERY FACILITY LICENSEE OR A CONCESSIONAIRE LICENSEE OR AN EMPLOYEE OF A VIDEO LOTTERY FACILITY LICENSEE OR A CONCESSIONAIRE LICENSEE MAY NOT KNOWINGLY ALLOW A PERSON TO CONSUME ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES OF A VIDEO LOTTERY FACILITY EXCEPT DURING THE HOURS OF OPERATION ESTABLISHED UNDER § 9–1A–23(A) OF THE STATE GOVERNMENT ARTICLE.

[(5)**] (4)** Any person who violates the provisions of this subsection is guilty of a misdemeanor and may be fined not less than $50 nor more than $500 for each offense.

11–501.

(a) In Allegany County, any person having a license under this article may not sell intoxicating beverages between the hours of 2 a.m. and 7:00 o'clock a.m. except as provided in subsection (b) of this section, it shall be unlawful after 2:00 a.m. Sunday to sell intoxicating beverages until 7:00 o'clock a.m. Monday. However, Sunday sales when New Year's Eve or New Year's Day falls on Sunday shall be governed by § 11–402(b) of this article.

(D) IN ALLEGANY COUNTY, NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES UNDER AN ENTERTAINMENT FACILITY LICENSE OR AN ENTERTAINMENT CONCESSIONAIRE LICENSE ARE THE SAME AS THE HOURS OF OPERATION FOR A VIDEO LOTTERY FACILITY ESTABLISHED UNDER § 9–1A–23(A) OF THE STATE GOVERNMENT ARTICLE.

Article – State Government

9–1A–23.

(a) A video lottery facility may operate 24 hours a day.

~~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 70

(House Bill 816)

AN ACT concerning

Alcoholic Beverages – Allegany County – Video Lottery Facility Sales and Consumption

FOR the purpose of creating in Allegany County a Class BWL–VLF (video lottery facility) beer, wine and liquor license and a Class BWL–VLC (concessionaire) beer, wine and liquor license; specifying that the Board of License Commissioners may issue a video lottery facility license for a video lottery facility that contains one or more food services facilities, bars, or lounges; specifying that a video lottery facility license may be issued to an individual or entity that meets certain requirements; providing that an applicant for the license need not meet a location, voting, or residency requirement; providing that the video lottery facility license authorizes the licensee to sell beer, wine, and liquor by the drink and by the bottle on the premises of the video lottery facility, for consumption anywhere in the facility or on grounds controlled by the licensee as defined in the video lottery facility license; authorizing the Board to issue a concessionaire license to one or more concessionaires operating in a video lottery facility; authorizing a concessionaire license holder to sell beer, wine, and liquor on the premises of the concessionaire for consumption anywhere in the video lottery facility or on grounds controlled by the video lottery facility licensee as defined in the video lottery facility license; specifying certain fees; specifying that an off–sale privilege is not conferred by a video lottery facility license or a concessionaire license; authorizing that beer, wine, and liquor purchased under a video lottery facility license or a concessionaire license may be taken anywhere in a video lottery facility or on grounds controlled by the video lottery facility licensee; specifying that a video lottery facility license and a concessionaire license authorize the playing of music and dancing; specifying certain days and hours of sale for the video lottery facility and concessionaire licenses; specifying that video lottery facility and concessionaire licenses and licensees are subject to all laws and regulations applicable to the sale of alcoholic beverages not inconsistent with this Act; providing for the application to certain persons of certain penalties and sanctions for violations occurring on certain premises; authorizing a person to consume alcoholic beverages on the licensed premises of a video lottery facility during certain hours of operation of the facility; specifying that the hours for the sale of alcoholic beverages under a video lottery facility license or concessionaire license are the same as the hours of operation for a video lottery facility; defining certain terms; <u>making this Act an emergency measure;</u> and generally relating to alcoholic beverages and video lottery facilities in Allegany County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages

Section 6–201(a) and (b)(1) and (2), 11–304(a), and 11–501(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(b–1) and 11–501(d)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–304(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–23(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 2B – Alcoholic Beverages

6–201.

(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.

(2) The annual fee for this license is payable to the local collecting agent before any license is issued, for distribution as provided in this article.

(3) (i) Except in Montgomery County or in the case of a contrary provision in this subtitle, this license shall be issued, on approval of the application by the board of license commissioners in any county in which a license may be issued for the sale of beer, wine, and liquor, to the owner of any hotel which meets the following minimum provisions:

1. The hotel building shall be originally constructed for hotel purposes; be at least three stories in height; and contain at least one passenger elevator;

2. The hotel shall contain no less than 100 rooms for the accommodation of the public;

3. The hotel shall contain a dining room with facilities for preparing and serving regular meals for at least 125 persons at one seating; and

4. The capital investment in the hotel facility may not be less than $500,000.

(ii) The annual fee for this license is $2,000.

(b) (1) The provisions of this subsection apply only in Allegany County.

(2) (i) The Board of License Commissioners may issue Class B beer, wine and liquor (on–sale) licenses.

(ii) This license shall be issued for the exclusive use:

1. On the premises of a restaurant that is located within a hotel or motel establishment; or

2. If used in conjunction with a Class 7 micro–brewery license, on the premises of a restaurant only.

(iii) In addition to other county requirements provided for in this article:

1. The hotel or motel shall be an establishment having at least 100 bedrooms for public accommodation; and

2. The restaurant shall be an establishment:

A. Located in a permanent building with ample space and accommodations for preparing, serving, and selling meals to the public during business hours;

B. That 60 percent of its gross monthly revenue is derived from the sale of food;

C. That has waiter or waitress service to its customers who are seated at tables for dining; and

D. That is not considered to be a fast–food style facility.

(iv) This license authorizes the holder to sell beer, wine and liquor by the drink for consumption on the licensed premises only.

(v) This license does not have off–sale privileges.

(vi) The requirements for hours and days of sale are as provided under § 11–501(a) and (b) of this article.

(vii) The annual license fee is $800.

(viii) This license is exempt from any license population quota limitation.

(ix) Notwithstanding any law to the contrary, this license may not be transferred to a location other than the premises for which it was issued.

(B–1) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "CONCESSIONAIRE" MEANS A LESSEE, SUBLESSEE, OR ANY OTHER OPERATOR OF AN ESTABLISHMENT THAT:

1. ENGAGES IN THE DAILY SALE OF BEER, WINE, AND LIQUOR BY THE DRINK OR BY THE BOTTLE ON ITS PREMISES FOR CONSUMPTION ANYWHERE IN A VIDEO LOTTERY FACILITY; AND

2. IS OPERATED AS A CONCESSION INDEPENDENT OF THE CLASS BWL–VLF LICENSE.

(III) "VIDEO LOTTERY FACILITY" MEANS A FACILITY THAT HOLDS A LICENSE UNDER TITLE 9, SUBTITLE 1A OF THE STATE GOVERNMENT ARTICLE.

(2) (I) THERE IS A CLASS BWL–VLF (VIDEO LOTTERY FACILITY) BEER, WINE AND LIQUOR LICENSE.

(II) THE BOARD MAY ISSUE A CLASS BWL–VLF LICENSE FOR A VIDEO LOTTERY FACILITY THAT CONTAINS ONE OR MORE FOOD SERVICE FACILITIES, BARS, OR LOUNGES.

(III) THE CLASS BWL–VLF LICENSE MAY BE ISSUED TO AN INDIVIDUAL OR ENTITY THAT OWNS A VIDEO LOTTERY FACILITY AND HOLDS A LICENSE UNDER TITLE 9, SUBTITLE 1A OF THE STATE GOVERNMENT ARTICLE.

(IV) AN APPLICANT FOR A CLASS BWL–VLF LICENSE MAY NOT BE REQUIRED TO MEET ANY LOCATION, VOTING, OR RESIDENCY REQUIREMENT.

(V) A CLASS BWL–VLF LICENSE AUTHORIZES THE LICENSEE TO SELL BEER, WINE, AND LIQUOR BY THE DRINK AND BY THE BOTTLE ON THE PREMISES OF THE VIDEO LOTTERY FACILITY, FOR CONSUMPTION ANYWHERE IN THE VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY THE LICENSEE, AS DEFINED IN THE CLASS BWL–VLF LICENSE.

(3) (I) THERE IS A CLASS BWL–VLC (VIDEO LOTTERY CONCESSIONAIRE) BEER, WINE AND LIQUOR LICENSE.

(II) THE BOARD MAY ISSUE A CLASS BWL–VLC LICENSE TO ONE OR MORE CONCESSIONAIRES OPERATING IN THE VIDEO LOTTERY FACILITY.

(III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A CLASS BWL–VLC LICENSE AUTHORIZES THE LICENSEE TO SELL BEER, WINE, AND LIQUOR ON THE PREMISES OF THE CONCESSIONAIRE FOR CONSUMPTION ANYWHERE IN THE VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY THE CLASS BWL–VLF LICENSEE, AS DEFINED IN THE CLASS BWL–VLF LICENSE.

(4) (I) THE ANNUAL FEE FOR A CLASS BWL–VLF LICENSE IS $15,000.

(II) THE ANNUAL FEE FOR A CLASS BWL–VLC LICENSE IS $5,000.

(III) THE ANNUAL LICENSE FEE SHALL BE PAID TO THE BOARD ON OR BEFORE MAY 1 OF EACH YEAR.

(5) (I) AN OFF–SALE PRIVILEGE IS NOT CONFERRED BY A CLASS BWL–VLF LICENSE OR A CLASS BWL–VLC LICENSE.

(II) BEER, WINE, AND LIQUOR PURCHASED UNDER A CLASS BWL–VLF LICENSE OR A CLASS BWL–VLC LICENSE MAY BE TAKEN ANYWHERE IN A VIDEO LOTTERY FACILITY OR ON GROUNDS CONTROLLED BY THE CLASS BWL–VLF LICENSEE, AS DEFINED IN THE CLASS BWL–VLF LICENSE.

(6) A CLASS BWL–VLF LICENSE AND A CLASS BWL–VLC LICENSE AUTHORIZE:

(I) THE PLAYING OF MUSIC AND DANCING; AND

(II) THE SALE AND PROVISION OF BEER, WINE, AND LIQUOR THROUGHOUT THE VIDEO LOTTERY FACILITY AND GROUNDS CONTROLLED BY THE CLASS BWL–VLF LICENSEE DURING THOSE DAYS AND HOURS THAT THE VIDEO LOTTERY FACILITY IS OPEN FOR BUSINESS.

(7) CLASS BWL–VLF AND CLASS BWL–VLC LICENSES AND LICENSEES ARE SUBJECT TO ALL LAWS AND REGULATIONS APPLICABLE TO THE SALE OF ALCOHOLIC BEVERAGES NOT INCONSISTENT WITH THIS SUBSECTION.

(8) ANY PENALTY OR OTHER SANCTION THAT IS IMPOSED FOR A VIOLATION OF A REGULATION OF THE BOARD ON THE LICENSED PREMISES OF A CLASS BWL–VLC LICENSEE SHALL APPLY TO THE CONCESSIONAIRE THAT THE BOARD DETERMINES TO BE RESPONSIBLE FOR THE VIOLATION.

11–304.

(a) (1) Between 2 a.m. and 6 a.m. on any day, a person may not consume any alcoholic beverages on any premises open to the general public, any place of public entertainment, or any place at which setups or other component parts of mixed alcoholic drinks are sold under any license issued under the provisions of the Business Regulation Article, and an owner, operator or manager of the premises or places may not knowingly permit such consumption.

(2) Except as provided in this section, any person found consuming any alcoholic beverage on any premises open to the general public, and any owner, operator or manager of those premises or places who knowingly permits consumption between the hours provided by this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $50 and not less than $5.

(i) In Anne Arundel County the fine may not be more than $250.

(ii) In Worcester County the fine may not be more than $1,000.

(b) (1) **(I)** This subsection applies only in Allegany County.

(II) IN SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH AND PARAGRAPH (2) OF THIS SUBSECTION, "PREMISES" MEANS:

1. A RESTAURANT, TAVERN, HOTEL, CLUB, DANCE STUDIO, OR DISCO;

2. A PLACE OF PUBLIC ENTERTAINMENT;

3. A PLACE OPEN TO THE GENERAL PUBLIC; OR

4. A PLACE THAT IS LICENSED BY THE STATE OR THE COUNTY.

[(2)**] (III)** The prohibitions of **[**this subsection**] SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH AND PARAGRAPH (2) OF THIS SUBSECTION** apply after 1 a.m. on Sunday or between the hours of 1 a.m. and 7 a.m. on other days.

[(3) (i)**] (IV)** A person may not consume any alcoholic beverages on any:

1. Premises open to the general public;

2. Place operated as a club;

3. Place of public entertainment; or

4. Place at which setups or other component parts of mixed alcoholic drinks are sold under any license issued under the provisions of this article.

[(ii)**] (V)** An owner, operator, or manager of the premises may not permit that consumption.

[(4) (i)**] (2) (I)** A person may not possess or consume any alcoholic beverage on any premises which is not licensed under this article but which is open to the general public and is operated as a club, a place of public entertainment, or a place where setups or other component parts of mixed alcoholic drinks are sold.

(ii) An owner, operator, or manager of the premises may not permit that consumption or possession.

(3) (I) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBSECTION, A PERSON MAY CONSUME ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES OF A VIDEO LOTTERY FACILITY ONLY DURING THE HOURS OF OPERATION ESTABLISHED UNDER § 9–1A–23(A) OF THE STATE GOVERNMENT ARTICLE.

(II) A VIDEO LOTTERY FACILITY LICENSEE OR A CONCESSIONAIRE LICENSEE OR AN EMPLOYEE OF A VIDEO LOTTERY FACILITY LICENSEE OR A CONCESSIONAIRE LICENSEE MAY NOT KNOWINGLY ALLOW A PERSON TO CONSUME ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES OF A VIDEO LOTTERY FACILITY EXCEPT DURING THE HOURS OF OPERATION ESTABLISHED UNDER § 9–1A–23(A) OF THE STATE GOVERNMENT ARTICLE.

[(5)**] (4)** Any person who violates the provisions of this subsection is guilty of a misdemeanor and may be fined not less than $50 nor more than $500 for each offense.

11–501.

(a) In Allegany County, any person having a license under this article may not sell intoxicating beverages between the hours of 2 a.m. and 7:00 o'clock a.m. except as provided in subsection (b) of this section, it shall be unlawful after 2:00 a.m. Sunday to sell intoxicating beverages until 7:00 o'clock a.m. Monday. However, Sunday sales when New Year's Eve or New Year's Day falls on Sunday shall be governed by § 11–402(b) of this article.

(D) IN ALLEGANY COUNTY, NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES UNDER AN ENTERTAINMENT FACILITY LICENSE OR AN ENTERTAINMENT CONCESSIONAIRE LICENSE ARE THE SAME AS THE HOURS OF OPERATION FOR A VIDEO LOTTERY FACILITY ESTABLISHED UNDER § 9–1A–23(A) OF THE STATE GOVERNMENT ARTICLE.

Article – State Government

9–1A–23.

(a) A video lottery facility may operate 24 hours a day.

~~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 71

(Senate Bill 640)

AN ACT concerning

Civil Cases – Maryland Legal Services Corporation Fund – Surcharges – ~~Repeal~~ *Extension* of Termination Date

FOR the purpose of ~~repealing~~ *extending* the termination date of certain provisions of law altering certain surcharges on certain fees, charges, and costs in certain civil cases and requiring a certain informational budget to be prepared for the Maryland Legal Services Corporation and submitted to the General Assembly; and generally relating to the Maryland Legal Services Corporation Fund.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 7–202(a)(1), (d), and (f) and 7–301(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Human Services
Section 11–208
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 486 of the Acts of the General Assembly of 2010
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

7–202.

(a) (1) (i) The State Court Administrator shall determine the amount of all court costs and charges for the circuit courts of the counties with the approval of the Board of Public Works.

(ii) The fees and charges shall be uniform throughout the State.

(d) The State Court Administrator, as part of the Administrator's determination of the amount of court costs and charges in civil cases, shall assess a surcharge that:

(1) May not be more than $55 per case; and

(2) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(f) If a party in a proceeding feels aggrieved by any fee permitted under this subtitle or by §§ 3–601 through 3–603 of the Real Property Article, the party may request a judge of that circuit court to determine the reasonableness of the fee.

7–301.

(c) (1) The filing fees and costs in a civil case are those prescribed by law subject to modification by law, rule, or administrative regulation.

(2) The Chief Judge of the District Court shall assess a surcharge that:

(i) May not be more than:

1. $8 per summary ejectment case; and

2. $18 per case for all other civil cases; and

(ii) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(3) The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.

Article – Human Services

11–208.

(a) The executive director shall prepare an annual budget for the Corporation.

(b) (1) For informational purposes only, the Corporation shall submit its budget to the General Assembly in conjunction with the budget request of the Judicial Branch of the State government on November 1 of each year.

(2) The informational budget required under this subsection shall include 3 years of data, including the most recently completed fiscal year, an estimate for the current fiscal year, and an estimate for the next fiscal year, including:

(i) a summary of total expenditures and the sources of revenue that support that spending;

(ii) line item expenditure detail for personnel, operating expenses, and grants, including individual grantees;

(iii) narrative explanation of all revenue and spending changes between the current fiscal year and the next fiscal year;

(iv) performance measurement data that details the use of funds; and

(v) detail on the Corporation's reserve fund, including actual and estimated end of fiscal year balances, transfers to and from the reserve fund, and the policies governing the reserve fund.

Chapter 486 of the Acts of 2010

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. ~~[~~It shall remain effective for a period of ~~3~~ *8* years and, at the end of June 30, ~~2013~~ ***2018***, 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 shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 72

(House Bill 838)

AN ACT concerning

Civil Cases – Maryland Legal Services Corporation Fund – Surcharges – ~~Repeal~~ Extension of Termination Date

FOR the purpose of ~~repealing~~ extending the termination date of certain provisions of law altering certain surcharges on certain fees, charges, and costs in certain civil cases and requiring a certain informational budget to be prepared for the Maryland Legal Services Corporation and submitted to the General Assembly; and generally relating to the Maryland Legal Services Corporation Fund.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 7–202(a)(1), (d), and (f) and 7–301(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Human Services
Section 11–208
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 486 of the Acts of the General Assembly of 2010
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

7–202.

(a) (1) (i) The State Court Administrator shall determine the amount of all court costs and charges for the circuit courts of the counties with the approval of the Board of Public Works.

(ii) The fees and charges shall be uniform throughout the State.

(d) The State Court Administrator, as part of the Administrator's determination of the amount of court costs and charges in civil cases, shall assess a surcharge that:

(1) May not be more than $55 per case; and

(2) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(f) If a party in a proceeding feels aggrieved by any fee permitted under this subtitle or by §§ 3–601 through 3–603 of the Real Property Article, the party may request a judge of that circuit court to determine the reasonableness of the fee.

7–301.

(c) (1) The filing fees and costs in a civil case are those prescribed by law subject to modification by law, rule, or administrative regulation.

(2) The Chief Judge of the District Court shall assess a surcharge that:

(i) May not be more than:

1. $8 per summary ejectment case; and

2. $18 per case for all other civil cases; and

(ii) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(3) The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.

Article – Human Services

11–208.

(a) The executive director shall prepare an annual budget for the Corporation.

(b) (1) For informational purposes only, the Corporation shall submit its budget to the General Assembly in conjunction with the budget request of the Judicial Branch of the State government on November 1 of each year.

(2) The informational budget required under this subsection shall include 3 years of data, including the most recently completed fiscal year, an estimate for the current fiscal year, and an estimate for the next fiscal year, including:

(i) a summary of total expenditures and the sources of revenue that support that spending;

(ii) line item expenditure detail for personnel, operating expenses, and grants, including individual grantees;

(iii) narrative explanation of all revenue and spending changes between the current fiscal year and the next fiscal year;

(iv) performance measurement data that details the use of funds; and

(v) detail on the Corporation's reserve fund, including actual and estimated end of fiscal year balances, transfers to and from the reserve fund, and the policies governing the reserve fund.

Chapter 486 of the Acts of 2010

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. ~~[~~It shall remain effective for a period of ~~3~~ 8 years and, at the end of June 30, ~~2013~~ 2018, 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 shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 73

(Senate Bill 749)

AN ACT concerning

Maryland Automobile Insurance Fund – Operational Changes

FOR the purpose of providing that the Maryland Automobile Insurance Fund is not subject to certain provisions of State law; providing that the Fund is subject to specified provisions of State law; providing that the Fund is independent of all State units; altering the composition, powers, and duties of the Board of Trustees of the Fund; requiring the Governor to appoint all members of the Board; requiring the Governor to consider the geographic and demographic diversity of the State in appointing individuals to the Board; altering the term of a member of the Board; altering the manner in which vacancies on the Board are filled; repealing certain provisions of law relating to a deemed resignation of a member of the Board; authorizing the Governor to remove a member of the Board for certain reasons; altering the compensation and reimbursement to which a member of the Board is entitled; providing that a member of the Board is not required to take compensation under certain circumstances; repealing a provision of law that requires compensation of the Executive Director of the Fund to be determined with the approval of the Governor; requiring the Board to employ certain attorneys for certain purposes; removing employees of the Fund from the State Personnel Management System except under certain circumstances; requiring the Executive Director to appoint and remove employees in accordance with certain policies; requiring the two members of the Board who serve on a certain financial committee to have certain expertise; repealing provisions of law that authorize the Legislative Auditor to conduct certain audits of the Fund; requiring a certain audit committee to require the Fund's internal auditors to conduct certain audits; exempting the Fund from certain State procurement law; clarifying that the employees of the Fund are authorized to participate in the State's health insurance program; clarifying that the employees of the Fund are eligible to participate in the State's pension system; providing for the initial terms of members of the Board; making stylistic, conforming, and clarifying changes; providing for the effective dates of this Act; and generally relating to the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 20–201 through 20–204 and 20–303(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article – Insurance

Section 20–304
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Insurance
Section 20–304
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11–203(a)(1)(ix) through (xix)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–511 and 23–201(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 – Insurance

20–201.

(a) There is a Maryland Automobile Insurance Fund.

(B) THE FUND IS INDEPENDENT OF ALL STATE UNITS.

[(b)**] (C)** The Fund is a member of the Property and Casualty Insurance Guaranty Corporation.

[(c)**] (D) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE FUND IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE.**

(2) EXCEPT AS PROVIDED IN ~~PARAGRAPHS (2) AND~~ PARAGRAPH (3) OF THIS SUBSECTION, THE FUND IS NOT SUBJECT TO ANY LAW, INCLUDING § 6–106 OF THE STATE GOVERNMENT ARTICLE, THAT AFFECTS GOVERNMENTAL UNITS.

~~**(2)** In addition to the provisions of this title, the Fund is subject to Title 2, Subtitle 5 of this article.~~

(3) THE FUND IS SUBJECT TO:

(I) TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE;

(II) TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE;

(III) THE MARYLAND PUBLIC ETHICS LAW;

(IV) TITLE 12 OF THE STATE GOVERNMENT ARTICLE; AND

(V) TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE~~; AND~~

~~(VI) §§ 2–205, 2–209, AND 4–116 OF THIS ARTICLE~~.

(4) PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION DOES NOT AFFECT THE EXEMPTION FROM PROPERTY TAX UNDER § 7–210 OF THE TAX – PROPERTY ARTICLE.

20–202.

(a) There is a Board of Trustees of the Fund.

(b) (1) The Board of Trustees consists of **[**13**]** **9** members **[**.

(2) Of the 13 members:

(i) seven shall be**]** appointed by the Governor with the advice and consent of the Senate**[**;

(ii) five shall be appointed by the Board of Directors; and

(iii) one shall be the Executive Director**]**.

[(3) Except as provided in § 20–203(a)(3) of this subtitle, the Executive Director may vote on all matters before the Board of Trustees.**]**

(2) OF THE NINE MEMBERS:

(I) AT LEAST THREE SHALL HAVE INSURANCE INDUSTRY EXPERTISE; AND

(II) AT LEAST TWO SHALL HAVE FINANCIAL MANAGEMENT EXPERTISE.

(3) OF THE MEMBERS DESCRIBED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, AT LEAST ONE SHALL BE APPOINTED FROM A LIST OF TWO OR MORE INDIVIDUALS RECOMMENDED BY THE BOARD OF DIRECTORS.

(c) A member **[**appointed by the Governor**]**may not be actively affiliated with an insurance agency, insurance producer, insurer, or premium finance company that does business with the Fund.

(d) **(1) [**At least three of the five members appointed by the Board of Directors**] EACH MEMBER** shall be **[**residents**] A RESIDENT** of the State.

(2) IN DECIDING WHICH INDIVIDUALS TO APPOINT, THE GOVERNOR, TO THE EXTENT PRACTICABLE, SHALL CONSIDER THE GEOGRAPHIC AND DEMOGRAPHIC, INCLUDING RACE AND GENDER, DIVERSITY OF THE STATE.

(E) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD OF TRUSTEES SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

[(e)**] (F)** (1) **[**A member appointed by the Governor serves at the pleasure of the Governor.

(2)**]** The term of a member **[**appointed by the Board of Directors**]** is **[**4**] 5** years **[**and begins on September 1**]**.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON OCTOBER 1, 2013.

(3) At the end of a term, a member **[**appointed by the Board of Directors**]** continues to serve until a successor is **[**chosen**] APPOINTED** and qualifies.

(4) **A MEMBER MAY NOT SERVE FOR MORE THAN:**

(I) TWO FULL TERMS; OR

(II) A TOTAL OF 10 YEARS.

(5) If a member **OF THE BOARD OF TRUSTEES [**appointed by the Board of Directors**]** ceases to be a member of the Board **[**of Trustees**]**, the **[**Board of Directors**] GOVERNOR** shall appoint a successor for the unexpired term.

[(5) A member appointed by the Board of Directors is deemed to have resigned, causing a vacancy on the Board of Trustees, if:

(i) the member was employed by an Association member or insurance trade association when the member's term on the Board of Trustees began; and

(ii) for any reason, the member's employment with the Association member or insurance trade association ends during the member's term on the Board of Trustees.**]**

[(f)**] (G)** **[**(1)**]** The Board of Trustees shall choose a **[**chairman**] CHAIR** from among its members.

[(2) For each successive term, the position of chairman shall alternate between a gubernatorial appointee and an Association appointee.

(3) The Executive Director may not be the chairman of the Board of Trustees.**]**

[(g)**] (H)** **THE GOVERNOR MAY REMOVE A MEMBER OF THE BOARD OF TRUSTEES FOR INCOMPETENCE OR MISCONDUCT.**

(I) (1) Each member of the Board of Trustees is entitled to:

[(1)**] (I)** **[**per diem compensation set by the Board of Public Works for each day actually engaged in the discharge of official duties, if the member is not otherwise an officer or employee of the State**] REASONABLE COMPENSATION:**

1. IN THE FORM OF SALARY FOR WORK PERFORMED FOR THE BENEFIT OF THE FUND; AND

2. AS PROVIDED IN THE BUDGET OF THE BOARD OF TRUSTEES; and

[(2)**] (II)** reimbursement for expenses**:**

1. [under the Standard State Travel Regulations,**] INCURRED IN THE PERFORMANCE OF THE MEMBER'S DUTIES; AND**

2. as provided in the budget of the Board of Trustees.

(2) NOTHING IN PARAGRAPH (1)(I) OF THIS SUBSECTION REQUIRES A MEMBER OF THE BOARD OF TRUSTEES TO TAKE COMPENSATION IF THE MEMBER HAS A CONFLICT OF INTEREST WITH OTHER EMPLOYMENT THAT

PRECLUDES THE MEMBER FROM TAKING COMPENSATION FOR WORK PERFORMED FOR THE BENEFIT OF THE FUND.

[(h)**] (J)** The Board of Trustees:

(1) shall **[**formulate policy for the Fund**] ADOPT RULES, BYLAWS, AND PROCEDURES; AND**

(2) MAY ADOPT ANY POLICY TO CARRY OUT THIS TITLE.

20–203.

(a) (1) The Board of Trustees shall**:**

(I) appoint the Executive Director of the Fund **[**with the approval of the Governor**]; AND**

(II) EMPLOY ATTORNEYS TO ADVISE AND REPRESENT THE FUND IN ALL LEGAL MATTERS AND, WHERE NECESSARY, TO SUE OR DEFEND SUITS IN THE NAME OF THE FUND.

(2) The Executive Director serves at the pleasure of the Board of Trustees.

(3) **[**The incumbent Executive Director may not vote on the choice of a successor.

(4)**]** If the Board of Trustees fails to agree on a successor **EXECUTIVE DIRECTOR**, the Governor shall appoint the successor.

(b) (1) The Executive Director:

(i) is the administrative head of the Fund; and

(ii) shall exercise the powers and perform the duties conferred on the Fund by this title, except for those powers and duties conferred on the Board of Trustees.

(2) The Board of Trustees shall advise the Executive Director on the exercise of the powers and duties conferred on the Executive Director by this title.

(c) The Board of Trustees shall determine the compensation of the Executive Director **[**with the approval of the Governor**]**.

~~20–204.~~

~~(a) [(1) Except as provided in paragraph (2) of this subsection or otherwise by law, the Executive Director shall appoint and remove staff of the Fund in accordance with the provisions of the State Personnel and Pensions Article.~~

~~(2) Positions that the Executive Director designates with the approval of the Board of Trustees as technical or professional positions are in the executive service, management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.]~~

~~**(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EMPLOYEES OF THE FUND ARE NOT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.**~~

~~**(2) A SKILLED SERVICE EMPLOYEE OF THE FUND HIRED BEFORE OCTOBER 1, 2013, IN A NONPROFESSIONAL OR NONTECHNICAL POSITION SHALL REMAIN IN THE SKILLED SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR ITS EQUIVALENT AS LONG AS THE EMPLOYEE REMAINS IN A NONPROFESSIONAL OR NONTECHNICAL POSITION WITH THE FUND.**~~

~~**(3) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE EMPLOYEES OF THE FUND IN ACCORDANCE WITH THE POLICIES OF THE BOARD OF TRUSTEES.**~~

~~[(3)] (4) Notwithstanding any other provision of law, the Executive Director may appoint claims adjusters, attorneys, and other necessary personnel directly as employees or on a contract basis.~~

~~(b) The Executive Director shall determine and administer the compensation of the [personnel] EMPLOYEES of the Fund [designated under subsection (a)(2) of this section] with the approval of the Board of Trustees.~~

~~(c) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, and any other General Fund cost–saving measure.~~

20–303.

(a) (1) A financial management committee of the Fund shall manage and invest all moneys collected by or for the Fund through premiums, earnings from investments, or from other sources.

(2) The financial management committee consists of the Executive Director and two members of the Board of Trustees **[**whom**]** **WHO HAVE FINANCIAL MANAGEMENT EXPERTISE, CHOSEN BY** the Board of Trustees **[**chooses**]**.

[(3) Of the two members from the Board of Trustees:

(i) one shall be chosen from the members appointed by the Governor; and

(ii) one shall be chosen from the members appointed by the Association.**]**

[20–304.

(a) The Legislative Auditor:

(1) may conduct fiscal audits and compliance audits of the accounts and transactions of the Fund each year instead of every 2 years; and

(2) shall advise officials of the Fund whether audits will be conducted each year or every 2 years.

(b) (1) If an independent auditor conducts a fiscal audit of the Fund, the Legislative Auditor may not duplicate the fiscal audit for the same period.

(2) If, at the request of the Fund, the Legislative Auditor conducts the fiscal audit instead of an independent auditor, the Legislative Auditor may charge the Fund for the cost of the fiscal audit.

(c) An audit conducted in accordance with this section is in addition to and not instead of any audit or regulatory authority of the Commissioner.**]**

20–304.

(A) (1) AN AUDIT COMMITTEE, COMPOSED OF MEMBERS OF THE BOARD OF TRUSTEES AND THE EXECUTIVE DIRECTOR, SHALL REQUIRE THE FUND'S INTERNAL AUDITOR TO CONDUCT FISCAL COMPLIANCE AND FISCAL AUDITS OF THE ACCOUNTS AND TRANSACTIONS OF THE FUND EACH YEAR.

(2) A FISCAL COMPLIANCE AUDIT SHALL:

(I) EXAMINE FINANCIAL TRANSACTIONS AND RECORDS AND INTERNAL CONTROLS;

(II) EVALUATE COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS; AND

(III) EXAMINE ELECTRONIC DATA PROCESSING OPERATIONS.

(B) IF AN INDEPENDENT AUDITOR CONDUCTS A FISCAL AUDIT OF THE FUND, THE AUDIT COMMITTEE SHALL DIRECT THE FUND'S INTERNAL AUDITORS NOT TO DUPLICATE THE FISCAL AUDIT FOR THE SAME PERIOD.

Article – State Finance and Procurement

11–203.

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(ix) **[**the Maryland Automobile Insurance Fund;

(x)**]** the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

[(xi)**] (X)** the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and

2. promote the purposes stated in § 11–201(a) of this subtitle;

[(xii)**] (XI)** the Department of Business and Economic Development, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Business and Economic Development or the Secretary's designee;

[(xiii)**] (XII)** the Rural Maryland Council;

[(xiv)**] (XIII)** the Maryland State Lottery Agency, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;

2. does not involve the advertising or other promotion of alcohol or tobacco products; and

3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

[(xv)**] (XIV)** the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

[(xvi)**] (XV)** the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

[(xvii)**] (XVI)**the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

[(xviii)**] (XVII)** the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and

2. is listed in or eligible for listing in the National Register of Historic Places; and

[(xix)**] (XVIII)** the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

20–204.

(a) [(1) Except as provided in paragraph (2) of this subsection or otherwise by law, the Executive Director shall appoint and remove staff of the Fund in accordance with the provisions of the State Personnel and Pensions Article.

(2) Positions that the Executive Director designates with the approval of the Board of Trustees as technical or professional positions are in the executive service, management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.]

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EMPLOYEES OF THE FUND ARE NOT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(2) A SKILLED SERVICE EMPLOYEE OF THE FUND HIRED BEFORE JULY 1, 2013, IN A NONPROFESSIONAL OR NONTECHNICAL POSITION SHALL REMAIN IN THE SKILLED SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR ITS EQUIVALENT AS LONG AS THE EMPLOYEE REMAINS IN A NONPROFESSIONAL OR NONTECHNICAL POSITION WITH THE FUND.

(3) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE EMPLOYEES OF THE FUND IN ACCORDANCE WITH THE POLICIES OF THE BOARD OF TRUSTEES.

[(3)] **(4)** Notwithstanding any other provision of law, the Executive Director may appoint claims adjusters, attorneys, and other necessary personnel directly as employees or on a contract basis.

(b) The Executive Director shall determine and administer the compensation of the [personnel] **EMPLOYEES** of the Fund [designated under subsection (a)(2) of this section] with the approval of the Board of Trustees.

(c) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, and any other General Fund cost–saving measure.

Article – State Personnel and Pensions

2–511.

(a) This section applies to employees of:

(1) the Maryland Environmental Service;

(2) the Northeast Maryland Waste Disposal Authority; **[**and**]**

(3) the Baltimore Metropolitan Council**; AND**

(4) THE MARYLAND AUTOMOBILE INSURANCE FUND.

(b) Subject to the regulations adopted under § 2–503 of this subtitle, an employee or, while receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, an employee's surviving spouse:

(1) may enroll and participate in the health insurance or other benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–507 of this subtitle.

(c) While receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, a former employee or a former employee's surviving spouse or dependent child:

(1) may enroll and participate in the health insurance benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–508 of this subtitle, with the employee's service with the Maryland Environmental Service, Northeast Maryland Waste Disposal Authority, **[**and**]** the Baltimore Metropolitan Council**, AND THE MARYLAND AUTOMOBILE INSURANCE FUND** being included as part of the employee's State service.

(d) For each participant under this section, the Maryland Environmental Service, the Northeast Maryland Waste Disposal Authority, **[**and**]** the Baltimore Metropolitan Council**, AND THE MARYLAND AUTOMOBILE INSURANCE FUND** or any successor agency, shall pay to the State the respective employer share of the cost of the Program based on the State subsidy allowed under this subtitle.

23–201.

(a) Except as provided in subsection (b) of this section, §§ 23–203 through 23–205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State's Attorney; and

(iv) a sheriff;

(3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) an additional employee or agent of the State Racing Commission authorized by § 11–207 of the Business Regulation Article;

(6) a permanent employee of the board of supervisors of elections of a county;

(7) a full–time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

(8) an employee of the Maryland Environmental Service who is a member of the Employees' Pension System on June 30, 1993, or transfers from the Employees' Retirement System on or after July 1, 1993;

(9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees' Pension System on July 1, 1991;

(10) a nonfaculty employee of the Baltimore City Community College who:

(i) is a member of the Employees' Pension System on October 1, 2002;

(ii) transfers from the Employees' Retirement System on or after October 1, 2002;

(iii) transfers from the Teachers' Pension System in accordance with § 23–202.1 of this subtitle; or

(iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;

(11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;

(12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:

(i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or

(ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;

(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;

(14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System;

(15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System;

(16) an employee of the Town of Berwyn Heights on or after the date that the Town of Berwyn Heights begins participation in the Employees' Pension System;

(17) an employee of the Town of Sykesville on or after the date that the Town of Sykesville begins participation in the Employees' Pension System; **[**and**]**

(18) an employee of the Town of University Park on or after the date that the Town of University Park begins participation in the Employees' Pension System**; AND**

(19) AN EMPLOYEE OF THE MARYLAND AUTOMOBILE INSURANCE FUND ON OR AFTER THE DATE THAT THE MARYLAND AUTOMOBILE INSURANCE FUND BEGINS PARTICIPATION IN THE EMPLOYEE'S PENSION SYSTEM.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That:

(a) The term for each member of the Board of Trustees of the Fund serving on September 30, 2013, expires effective October 1, 2013.

(b) The initial terms of members of the Board of Trustees of the Fund shall begin on October 1, 2013, and expire as follows:

(1) two ~~members~~ in 2015;

(2) two in 2016;

(3) three ~~members~~ in 2017; and

(4) two in 2018.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act shall take effect October 1, 2013.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 74

(House Bill 1132)

AN ACT concerning

Maryland Automobile Insurance Fund – Operational Changes

FOR the purpose of providing that the Maryland Automobile Insurance Fund is not subject to certain provisions of State law; providing that the Fund is subject to specified provisions of State law; providing that the Fund is independent of all State units; altering the composition, powers, and duties of the Board of Trustees of the Fund; requiring the Governor to appoint all members of the Board; requiring the Governor to consider the geographic and demographic diversity of the State in appointing individuals to the Board; altering the term of a member of the Board; altering the manner in which vacancies on the Board are filled; repealing certain provisions of law relating to a deemed resignation of a member of the Board; authorizing the Governor to remove a member of the Board for certain reasons; altering the compensation and reimbursement to which a member of the Board is entitled; providing that a member of the Board is not required to take compensation under certain circumstances; repealing a provision of law that requires compensation of the Executive Director of the Fund to be determined with the approval of the Governor; requiring the Board to employ certain attorneys for certain purposes; removing employees of the Fund from the State Personnel Management System except under certain circumstances; requiring the Executive Director to appoint and remove

employees in accordance with certain policies; requiring the two members of the Board who serve on a certain financial committee to have certain expertise; repealing provisions of law that authorize the Legislative Auditor to conduct certain audits of the Fund; requiring a certain audit committee to require the Fund's internal auditors to conduct certain audits; exempting the Fund from certain State procurement law; clarifying that the employees of the Fund are authorized to participate in the State's health insurance program; clarifying that the employees of the Fund are eligible to participate in the State's pension system; providing for the initial terms of members of the Board; making stylistic, conforming, and clarifying changes; providing for the effective dates of this Act; and generally relating to the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 20–201 through 20–204 and 20–303(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article – Insurance
Section 20–304
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Insurance
Section 20–304
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11–203(a)(1)(ix) through (xix)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–511 and 23–201(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 – Insurance

20–201.

(a) There is a Maryland Automobile Insurance Fund.

(B) THE FUND IS INDEPENDENT OF ALL STATE UNITS.

[(b)**] (C)** The Fund is a member of the Property and Casualty Insurance Guaranty Corporation.

[(c)**] (D) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE FUND IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE.**

(2) EXCEPT AS PROVIDED IN ~~PARAGRAPHS (2) AND~~ PARAGRAPH (3) OF THIS SUBSECTION, THE FUND IS NOT SUBJECT TO ANY LAW, INCLUDING § 6–106 OF THE STATE GOVERNMENT ARTICLE, THAT AFFECTS GOVERNMENTAL UNITS.

~~(2) In addition to the provisions of this title, the Fund is subject to Title 2, Subtitle 5 of this article.~~

(3) THE FUND IS SUBJECT TO:

(I) TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE;

(II) TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE;

(III) THE MARYLAND PUBLIC ETHICS LAW;

(IV) TITLE 12 OF THE STATE GOVERNMENT ARTICLE; AND

(V) TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE~~; AND~~

~~(VI) §§ 2–205, 2–209, AND 4–116 OF THIS ARTICLE~~.

(4) PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION DOES NOT AFFECT THE EXEMPTION FROM PROPERTY TAX UNDER § 7–210 OF THE TAX – PROPERTY ARTICLE.

20–202.

(a) There is a Board of Trustees of the Fund.

(b) (1) The Board of Trustees consists of **[**13**] 9** members **[**.

(2) Of the 13 members:

(i) seven shall be**]** appointed by the Governor with the advice and consent of the Senate**[**;

(ii) five shall be appointed by the Board of Directors; and

(iii) one shall be the Executive Director**]**.

[(3) Except as provided in § 20–203(a)(3) of this subtitle, the Executive Director may vote on all matters before the Board of Trustees.**]**

(2) OF THE NINE MEMBERS:

(I) AT LEAST THREE SHALL HAVE INSURANCE INDUSTRY EXPERTISE; AND

(II) AT LEAST TWO SHALL HAVE FINANCIAL MANAGEMENT EXPERTISE.

(3) OF THE MEMBERS DESCRIBED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, AT LEAST ONE SHALL BE APPOINTED FROM A LIST OF TWO OR MORE INDIVIDUALS RECOMMENDED BY THE BOARD OF DIRECTORS.

(c) A member **[**appointed by the Governor**]** may not be actively affiliated with an insurance agency, insurance producer, insurer, or premium finance company that does business with the Fund.

(d) **(1) [**At least three of the five members appointed by the Board of Directors**] EACH MEMBER** shall be **[**residents**] A RESIDENT** of the State.

(2) IN DECIDING WHICH INDIVIDUALS TO APPOINT, THE GOVERNOR, TO THE EXTENT PRACTICABLE, SHALL CONSIDER THE GEOGRAPHIC AND DEMOGRAPHIC, INCLUDING RACE AND GENDER, DIVERSITY OF THE STATE.

(E) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD OF TRUSTEES SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

[(e)**] (F)** (1) **[**A member appointed by the Governor serves at the pleasure of the Governor.

(2)**]** The term of a member **[**appointed by the Board of Directors**]** is **[**4**]** **5** years **[**and begins on September 1**]**.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON OCTOBER 1, 2013.

(3) At the end of a term, a member **[**appointed by the Board of Directors**]** continues to serve until a successor is **[**chosen**]** **APPOINTED** and qualifies.

(4) **A MEMBER MAY NOT SERVE FOR MORE THAN:**

(I) TWO FULL TERMS; OR

(II) A TOTAL OF 10 YEARS.

(5) If a member **OF THE BOARD OF TRUSTEES [**appointed by the Board of Directors**]** ceases to be a member of the Board **[**of Trustees**]**, the **[**Board of Directors**]** **GOVERNOR** shall appoint a successor for the unexpired term.

[(5) A member appointed by the Board of Directors is deemed to have resigned, causing a vacancy on the Board of Trustees, if:

(i) the member was employed by an Association member or insurance trade association when the member's term on the Board of Trustees began; and

(ii) for any reason, the member's employment with the Association member or insurance trade association ends during the member's term on the Board of Trustees.**]**

[(f)**]** **(G)** **[**(1)**]** The Board of Trustees shall choose a **[**chairman**]** **CHAIR** from among its members.

[(2) For each successive term, the position of chairman shall alternate between a gubernatorial appointee and an Association appointee.

(3) The Executive Director may not be the chairman of the Board of Trustees.**]**

[(g)**]** **(H)** **THE GOVERNOR MAY REMOVE A MEMBER OF THE BOARD OF TRUSTEES FOR INCOMPETENCE OR MISCONDUCT.**

(I) **(1)** Each member of the Board of Trustees is entitled to:

[(1)**]** **(I)** **[**per diem compensation set by the Board of Public Works for each day actually engaged in the discharge of official duties, if the member is not otherwise an officer or employee of the State**]** **REASONABLE COMPENSATION:**

1. IN THE FORM OF SALARY FOR WORK PERFORMED FOR THE BENEFIT OF THE FUND; AND

2. AS PROVIDED IN THE BUDGET OF THE BOARD OF TRUSTEES; and

[(2)**]** **(II)** reimbursement for expenses**:**

1. **[**under the Standard State Travel Regulations,**]** **INCURRED IN THE PERFORMANCE OF THE MEMBER'S DUTIES; AND**

2. as provided in the budget of the Board of Trustees.

(2) NOTHING IN PARAGRAPH (1)(I) OF THIS SUBSECTION REQUIRES A MEMBER OF THE BOARD OF TRUSTEES TO TAKE COMPENSATION IF THE MEMBER HAS A CONFLICT OF INTEREST WITH OTHER EMPLOYMENT THAT PRECLUDES THE MEMBER FROM TAKING COMPENSATION FOR WORK PERFORMED FOR THE BENEFIT OF THE FUND.

[(h)**]** **(J)** The Board of Trustees:

(1) shall **[**formulate policy for the Fund**]** **ADOPT RULES, BYLAWS, AND PROCEDURES; AND**

(2) MAY ADOPT ANY POLICY TO CARRY OUT THIS TITLE.

20–203.

(a) (1) The Board of Trustees shall**:**

(I) appoint the Executive Director of the Fund **[**with the approval of the Governor**]**; **AND**

(II) EMPLOY ATTORNEYS TO ADVISE AND REPRESENT THE FUND IN ALL LEGAL MATTERS AND, WHERE NECESSARY, TO SUE OR DEFEND SUITS IN THE NAME OF THE FUND.

(2) The Executive Director serves at the pleasure of the Board of Trustees.

(3) **[**The incumbent Executive Director may not vote on the choice of a successor.

(4)**]** If the Board of Trustees fails to agree on a successor **EXECUTIVE DIRECTOR**, the Governor shall appoint the successor.

(b) (1) The Executive Director:

(i) is the administrative head of the Fund; and

(ii) shall exercise the powers and perform the duties conferred on the Fund by this title, except for those powers and duties conferred on the Board of Trustees.

(2) The Board of Trustees shall advise the Executive Director on the exercise of the powers and duties conferred on the Executive Director by this title.

(c) The Board of Trustees shall determine the compensation of the Executive Director **[**with the approval of the Governor**]**.

~~20–204.~~

~~(a)~~ **[**~~(1) Except as provided in paragraph (2) of this subsection or otherwise by law, the Executive Director shall appoint and remove staff of the Fund in accordance with the provisions of the State Personnel and Pensions Article.~~

~~(2) Positions that the Executive Director designates with the approval of the Board of Trustees as technical or professional positions are in the executive service, management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.~~**]**

~~**(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EMPLOYEES OF THE FUND ARE NOT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.**~~

~~**(2) A SKILLED SERVICE EMPLOYEE OF THE FUND HIRED BEFORE OCTOBER 1, 2013, IN A NONPROFESSIONAL OR NONTECHNICAL POSITION SHALL REMAIN IN THE SKILLED SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR ITS EQUIVALENT AS LONG AS THE EMPLOYEE REMAINS IN A NONPROFESSIONAL OR NONTECHNICAL POSITION WITH THE FUND.**~~

~~**(3) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE EMPLOYEES OF THE FUND IN ACCORDANCE WITH THE POLICIES OF THE BOARD OF TRUSTEES.**~~

~~**[**(3)**] (4)** Notwithstanding any other provision of law, the Executive Director may appoint claims adjusters, attorneys, and other necessary personnel directly as employees or on a contract basis.~~

~~(b) The Executive Director shall determine and administer the compensation of the **[**personnel**] EMPLOYEES** of the Fund **[**designated under subsection (a)(2) of this section**]** with the approval of the Board of Trustees.~~

~~(c) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, and any other General Fund cost–saving measure.~~

20–303.

(a) (1) A financial management committee of the Fund shall manage and invest all moneys collected by or for the Fund through premiums, earnings from investments, or from other sources.

(2) The financial management committee consists of the Executive Director and two members of the Board of Trustees **[**whom**] WHO HAVE FINANCIAL MANAGEMENT EXPERTISE, CHOSEN BY** the Board of Trustees **[**chooses**]**.

[(3) Of the two members from the Board of Trustees:

(i) one shall be chosen from the members appointed by the Governor; and

(ii) one shall be chosen from the members appointed by the Association.**]**

[20–304.

(a) The Legislative Auditor:

(1) may conduct fiscal audits and compliance audits of the accounts and transactions of the Fund each year instead of every 2 years; and

(2) shall advise officials of the Fund whether audits will be conducted each year or every 2 years.

(b) (1) If an independent auditor conducts a fiscal audit of the Fund, the Legislative Auditor may not duplicate the fiscal audit for the same period.

(2) If, at the request of the Fund, the Legislative Auditor conducts the fiscal audit instead of an independent auditor, the Legislative Auditor may charge the Fund for the cost of the fiscal audit.

(c) An audit conducted in accordance with this section is in addition to and not instead of any audit or regulatory authority of the Commissioner.**]**

20–304.

(A) (1) AN AUDIT COMMITTEE, COMPOSED OF MEMBERS OF THE BOARD OF TRUSTEES AND THE EXECUTIVE DIRECTOR, SHALL REQUIRE THE FUND'S INTERNAL AUDITOR TO CONDUCT FISCAL COMPLIANCE AND FISCAL AUDITS OF THE ACCOUNTS AND TRANSACTIONS OF THE FUND EACH YEAR.

(2) A FISCAL COMPLIANCE AUDIT SHALL:

(I) EXAMINE FINANCIAL TRANSACTIONS AND RECORDS AND INTERNAL CONTROLS;

(II) EVALUATE COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS; AND

(III) EXAMINE ELECTRONIC DATA PROCESSING OPERATIONS.

(B) IF AN INDEPENDENT AUDITOR CONDUCTS A FISCAL AUDIT OF THE FUND, THE AUDIT COMMITTEE SHALL DIRECT THE FUND'S INTERNAL AUDITORS NOT TO DUPLICATE THE FISCAL AUDIT FOR THE SAME PERIOD.

Article – State Finance and Procurement

11–203.

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(ix) **[**the Maryland Automobile Insurance Fund;

(x)**]** the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

[(xi)**] (X)** the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and

2. promote the purposes stated in § 11–201(a) of this subtitle;

[(xii)**] (XI)** the Department of Business and Economic Development, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Business and Economic Development or the Secretary's designee;

[(xiii)**] (XII)** the Rural Maryland Council;

[(xiv)**] (XIII)** the Maryland State Lottery Agency, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;

2. does not involve the advertising or other promotion of alcohol or tobacco products; and

3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

[(xv)**] (XIV)** the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

[(xvi)**] (XV)** the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

[(xvii)**] (XVI)** the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

[(xviii)**] (XVII)** the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and

2. is listed in or eligible for listing in the National Register of Historic Places; and

[(xix)**] (XVIII)** the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

20–204.

(a) **[**(1) Except as provided in paragraph (2) of this subsection or otherwise by law, the Executive Director shall appoint and remove staff of the Fund in accordance with the provisions of the State Personnel and Pensions Article.

(2) Positions that the Executive Director designates with the approval of the Board of Trustees as technical or professional positions are in the executive service, management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.**]**

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EMPLOYEES OF THE FUND ARE NOT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(2) A SKILLED SERVICE EMPLOYEE OF THE FUND HIRED BEFORE JULY 1, 2013, IN A NONPROFESSIONAL OR NONTECHNICAL POSITION SHALL REMAIN IN THE SKILLED SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR ITS EQUIVALENT AS LONG AS THE EMPLOYEE REMAINS IN A NONPROFESSIONAL OR NONTECHNICAL POSITION WITH THE FUND.

(3) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE EMPLOYEES OF THE FUND IN ACCORDANCE WITH THE POLICIES OF THE BOARD OF TRUSTEES.

[(3)**] (4)** Notwithstanding any other provision of law, the Executive Director may appoint claims adjusters, attorneys, and other necessary personnel directly as employees or on a contract basis.

(b) The Executive Director shall determine and administer the compensation of the **[**personnel**] EMPLOYEES** of the Fund **[**designated under subsection (a)(2) of this section**]** with the approval of the Board of Trustees.

(c) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, and any other General Fund cost–saving measure.

Article – State Personnel and Pensions

2–511.

(a) This section applies to employees of:

(1) the Maryland Environmental Service;

(2) the Northeast Maryland Waste Disposal Authority; **[**and**]**

(3) the Baltimore Metropolitan Council**; AND**

(4) THE MARYLAND AUTOMOBILE INSURANCE FUND.

(b) Subject to the regulations adopted under § 2–503 of this subtitle, an employee or, while receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, an employee's surviving spouse:

(1) may enroll and participate in the health insurance or other benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–507 of this subtitle.

(c) While receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, a former employee or a former employee's surviving spouse or dependent child:

(1) may enroll and participate in the health insurance benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–508 of this subtitle, with the employee's service with the Maryland Environmental Service, Northeast Maryland Waste Disposal Authority, **[**and**]** the Baltimore Metropolitan Council**, AND THE MARYLAND AUTOMOBILE INSURANCE FUND** being included as part of the employee's State service.

(d) For each participant under this section, the Maryland Environmental Service, the Northeast Maryland Waste Disposal Authority, **[**and**]** the Baltimore Metropolitan Council**, AND THE MARYLAND AUTOMOBILE INSURANCE FUND** or any successor agency, shall pay to the State the respective employer share of the cost of the Program based on the State subsidy allowed under this subtitle.

23–201.

(a) Except as provided in subsection (b) of this section, §§ 23–203 through 23–205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State's Attorney; and

(iv) a sheriff;

(3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) an additional employee or agent of the State Racing Commission authorized by § 11–207 of the Business Regulation Article;

(6) a permanent employee of the board of supervisors of elections of a county;

(7) a full–time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

(8) an employee of the Maryland Environmental Service who is a member of the Employees' Pension System on June 30, 1993, or transfers from the Employees' Retirement System on or after July 1, 1993;

(9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees' Pension System on July 1, 1991;

(10) a nonfaculty employee of the Baltimore City Community College who:

(i) is a member of the Employees' Pension System on October 1, 2002;

(ii) transfers from the Employees' Retirement System on or after October 1, 2002;

(iii) transfers from the Teachers' Pension System in accordance with § 23–202.1 of this subtitle; or

(iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;

(11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;

(12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:

(i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or

(ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;

(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;

(14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System;

(15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System;

(16) an employee of the Town of Berwyn Heights on or after the date that the Town of Berwyn Heights begins participation in the Employees' Pension System;

(17) an employee of the Town of Sykesville on or after the date that the Town of Sykesville begins participation in the Employees' Pension System; **[**and**]**

(18) an employee of the Town of University Park on or after the date that the Town of University Park begins participation in the Employees' Pension System**; AND**

(19) AN EMPLOYEE OF THE MARYLAND AUTOMOBILE INSURANCE FUND ON OR AFTER THE DATE THAT THE MARYLAND AUTOMOBILE INSURANCE FUND BEGINS PARTICIPATION IN THE EMPLOYEE'S PENSION SYSTEM.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That:

(a) The term for each member of the Board of Trustees of the Fund serving on September 30, 2013, expires effective October 1, 2013.

(b) The initial terms of members of the Board of Trustees of the Fund shall begin on October 1, 2013, and expire as follows:

(1) two ~~members~~ in 2015;

(2) two in 2016;

(3) three ~~members~~ in 2017; and

(4) two in 2018.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act shall take effect October 1, 2013.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 75

(Senate Bill 779)

AN ACT concerning

Biotechnology Investment Tax Credit – Qualified Maryland Biotechnology Company – Definition

FOR the purpose of altering the definition of "qualified Maryland biotechnology company" for purposes of the biotechnology investment tax credit to include a company that has been in active business for a certain period of time from a certain date; providing for the application of this Act; and generally relating to credits against certain State taxes based on certain investments in certain biotechnology companies.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–725(a)(1) and (6)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–725(a)(7)
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

10–725.

(a) (1) In this section the following words have the meanings indicated.

(6) (i) "Qualified investor" means any individual or entity that invests at least $25,000 in a qualified Maryland biotechnology company and that is required to file an income tax return in any jurisdiction.

(ii) "Qualified investor" does not include a qualified pension plan, individual retirement account, or other qualified retirement plan under the Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or custodians under such plans, or similar tax–favored plans or entities under the laws of other countries.

(7) (i) "Qualified Maryland biotechnology company" means a biotechnology company that:

1. has its headquarters and base of operations in this State;

2. has fewer than 50 full–time employees;

3. except as provided in subparagraph (ii) of this paragraph, has been in active business no longer than 10 years;

4. does not have its securities publicly traded on any exchange; and

5. has been certified as a biotechnology company by the Department.

(ii) "Qualified Maryland biotechnology company" includes:

1. a company that has been in active business for up to 12 years if the Department determines that the company requires additional time to complete the process of regulatory approval; **[**and**]**

2. for fiscal years 2012 and 2013 only, a company that has been in active business for up to 15 years**;** ~~**AND**~~ **OR**

3. A COMPANY THAT HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 10 YEARS FROM THE DATE THE COMPANY FIRST RECEIVED ~~**AN**~~ **A QUALIFIED INVESTMENT** ~~**BY A QUALIFIED INVESTOR ELIGIBLE TO RECEIVE A CREDIT**~~ **UNDER THIS SECTION**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all initial tax credit certificates issued after June 30, 2013.

Approved by the Governor, April 9, 2013.

Chapter 76

(House Bill 328)

AN ACT concerning

Biotechnology Investment Tax Credit – Qualified Maryland Biotechnology Company – Definition

FOR the purpose of altering the definition of "qualified Maryland biotechnology company" for purposes of the biotechnology investment tax credit to ~~exclude a company that has received investments from certain qualified investors; repealing obsolete language~~ include a company that has been in active business for a certain period of time from a certain date; providing for the application of this Act; and generally relating to credits against certain State taxes based on certain investments in certain biotechnology companies.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–725(a)(1) and (6)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–725(a)(7)
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

10–725.

(a) (1) In this section the following words have the meanings indicated.

(6) (i) "Qualified investor" means any individual or entity that invests at least $25,000 in a qualified Maryland biotechnology company and that is required to file an income tax return in any jurisdiction.

(ii) "Qualified investor" does not include a qualified pension plan, individual retirement account, or other qualified retirement plan under the Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or custodians under such plans, or similar tax–favored plans or entities under the laws of other countries.

(7) ~~[~~(i)~~]~~ "Qualified Maryland biotechnology company" means a biotechnology company that:

~~[~~1.~~]~~ ~~(I)~~ has its headquarters and base of operations in this State;

~~[~~2.~~]~~ ~~(II)~~ has fewer than 50 full–time employees;

[3.] ~~(III)~~ [except as provided in subparagraph (ii) of this paragraph, has been in active business no longer than 10 years] ~~HAS NOT RECEIVED INVESTMENTS FROM QUALIFIED INVESTORS WHO HAVE COLLECTIVELY RECEIVED MORE THAN $5 MILLION OF TAX CREDITS UNDER THIS SECTION~~;

[4.] ~~(IV)~~ does not have its securities publicly traded on any exchange; and

[5.] ~~(V)~~ has been certified as a biotechnology company by the Department.

[(ii) "Qualified Maryland biotechnology company" includes:

1. a company that has been in active business for up to 12 years if the Department determines that the company requires additional time to complete the process of regulatory approval; ~~and~~

2. for fiscal years 2012 and 2013 only, a company that has been in active business for up to 15 years**; OR**

3. A COMPANY THAT HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 10 YEARS FROM THE DATE THE COMPANY FIRST RECEIVED ~~AN~~ *A QUALIFIED* INVESTMENT ~~BY A QUALIFIED INVESTOR WHO RECEIVED A CREDIT~~ UNDER THIS SECTION.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all initial tax credit certificates issued after June 30, 2013.

Approved by the Governor, April 9, 2013.

Chapter 77

(Senate Bill 947)

AN ACT concerning

Baltimore County – Property Tax Credit – Bowerman–Loreley Beach Community Association, Inc.

FOR the purpose of making a technical correction for purposes of a certain property tax credit; making this Act an emergency measure; and generally relating to a property tax credit in Baltimore County for the Bowerman–Loreley Beach Community Association, Inc.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–305(b)(21)
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

9–305.

(b) The governing body of Baltimore County may grant, by law, a property tax credit under this section against the county property tax imposed on:

(21) real property that is owned by the **[**Loreley Beach Community Association**]** **BOWERMAN–LORELEY BEACH COMMUNITY ASSOCIATION, INC.**;

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 78

(Senate Bill 961)

AN ACT concerning

Horse Racing – Special Takeout ~~and Bowie Race Course Training Center~~

FOR the purpose of authorizing certain wagers under certain regulations adopted by the State Racing Commission; requiring a racing licensee to deduct certain amounts from the handle; authorizing a racing licensee to conduct certain wagers only with the consent of the Commission and certain groups; ~~authorizing the owner of the Bowie Race Course Training Center to convey the Center to the City of Bowie; requiring the owner of the Center to provide certain services for certain purposes under a certain circumstance; requiring the owner of the Center to provide a certain notification to certain land owners under certain circumstances; prohibiting the City from being required to operate the Center~~

~~as a certain facility under certain circumstances; providing that a certain conveyance may take place between the owner of the Center and the City under certain circumstances; providing for the application of certain provisions of this Act; repealing certain requirements that a certain racing licensee maintain the operation of the Center, or convey the certain property associated with the Center as preserved land under certain circumstances;~~ and generally relating to ~~the operation of the Bowie Race Course Training Center and~~ wagers authorized by the State Racing Commission.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 11–514 ~~and 11–519~~
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

~~BY repealing~~
~~Article – State Government~~
~~Section 9–1A–09~~
~~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 Regulation

11–514.

(a) **[**A**]** **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A** licensee shall deduct from the handle:

(1) all the breakage;

(2) not more than 18% from each regular mutuel pool;

(3) not more than 21% from each multiple mutuel pool on 2 horses; and

(4) not more than 25.75% from each multiple mutuel pool on 3 or more horses.

(B) (1) FOR SPECIFIC WAGERS AUTHORIZED UNDER REGULATIONS ADOPTED BY THE COMMISSION, A LICENSEE SHALL DEDUCT FROM THE HANDLE:

(I) ALL THE BREAKAGE; AND

(II) NOT MORE THAN 40% FROM EACH MULTIPLE MUTUEL POOL ON 3 OR MORE HORSES.

(2) A LICENSEE MAY OFFER THE WAGERS DESCRIBED IN THIS SUBSECTION ONLY WITH THE CONSENT OF:

(I) THE COMMISSION;

(II) THE GROUP THAT REPRESENTS A MAJORITY OF THE OWNERS AND TRAINERS LICENSED IN THE STATE; AND

(III) THE GROUP THAT REPRESENTS A MAJORITY OF THE BREEDERS IN THE STATE.

[(b)**] (C)** Money that remains after deductions are made under subsection (a) of this section shall be returned as winnings to successful bettors.

[(c)**] (D)** (1) The amount deducted by the licensee under subsection (a) of this section shall be the sum of the allocations provided in § 11–515 of this subtitle, unless otherwise provided in a written agreement signed by the authorized representatives of:

(i) the licensee;

(ii) the group that represents a majority of the owners and trainers licensed in the State at the time the agreement is signed; and

(iii) the group that represents a majority of the breeders in the State at the time the agreement is signed.

(2) Nothing in this subsection may be construed to permit the licensee to in any way alter the mandatory takeout allocated to the Commission for the State tax.

~~11–519.~~

~~(a) The owner of the Bowie Race Course Training Center shall operate the Center as a thoroughbred training facility to provide more stall space for a race meeting that a licensee holds.~~

~~(b) The owner of the Bowie Race Course Training Center is responsible for the cost to improve, maintain, and operate the Center.~~

~~(c) As long as the Bowie Race Course Training Center is used for the purpose specified in subsection (a) of this section, the Commission shall have general regulatory jurisdiction over the Center to:~~

~~(1) provide enough stalls;~~

~~(2) maintain safe operating conditions;~~

~~(3) require the owner of the Center to submit an annual operating financial statement; and~~

~~(4) order reasonable improvements.~~

~~**(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE OWNER OF THE BOWIE RACE COURSE TRAINING CENTER MAY CONVEY THE PROPERTY ASSOCIATED WITH THE CENTER TO THE CITY OF BOWIE.**~~

~~**(2) PENDING ANY SUCH CONVEYANCE, THE OWNER OF THE BOWIE RACE COURSE TRAINING CENTER SHALL PROVIDE REPAIR, MAINTENANCE, AND SECURITY SERVICES AS NECESSARY FOR THE UPKEEP OF THE PROPERTY, INCLUDING THE PERIMETER FENCING AND THE COVERED HORSE BRIDGE OVER BOWIE RACE TRACK ROAD.**~~

~~**(3) IMMEDIATELY PRIOR TO CONVEYANCE, THE OWNER OF THE BOWIE RACE COURSE TRAINING CENTER SHALL PROVIDE NOTICE TO ALL OWNERS OF LAND LOCATED WITHIN ONE MILE OF THE BOUNDARY OF THE CENTER OF THE PENDING CONVEYANCE.**~~

~~**(4) ON CONVEYANCE, THE CITY OF BOWIE MAY NOT BE REQUIRED TO OPERATE THE BOWIE RACE COURSE TRAINING CENTER AS A THOROUGHBRED TRAINING FACILITY FOR ANY PURPOSE.**~~

~~**(E) (1) THE CONVEYANCE UNDER SUBSECTION (D) OF THIS SECTION MAY TAKE PLACE WHEN THERE IS A MUTUAL AGREEMENT BETWEEN THE OWNER OF THE BOWIE RACE COURSE TRAINING CENTER AND THE CITY OF BOWIE AS TO THE PRICE AND THE CONDITION OF THE LAND, INCLUDING THE COST OF ENVIRONMENTAL REMEDIATION AND DEMOLITION OF ALL FIXTURES.**~~

~~**(2) THIS SECTION MAY NOT BE CONSTRUED TO ALLOW THE OWNER OF THE CENTER TO CONVEY THE PROPERTY TO ANY OTHER PERSON, CORPORATION, OR ENTITY THAT IS NOT THE CITY OF BOWIE.**~~

~~**Article – State Government**~~

~~**[**9–1A–09.~~

~~(d) (4) (i) A racing licensee of a racetrack location at Laurel Park shall:~~

~~1. maintain the operation of the Bowie Training Center; or~~

~~2. convey the property associated with the Bowie Training Center as preserved land.~~

~~(ii) 1. When the Bowie Training Center is no longer required by the State to be operated as a thoroughbred training facility, the State shall have the right of first refusal as grantee for any conveyance under subparagraph (i) of this paragraph.~~

~~2. The City of Bowie shall have the second right of refusal as grantee for any conveyance under subparagraph (i) of this paragraph.~~

~~3. A grantee under subsubparagraph 1 or 2 of this subparagraph may not be required to operate the Bowie Training Center as a training facility.~~**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 79

(Senate Bill 1001)

AN ACT concerning

Family Law – Protective Orders – Notification of Service – Sunset Extension

FOR the purpose of extending the termination date of certain provisions of law that provide for notice of the service on a respondent of certain protective orders; and generally relating to notification of the service of a protective order.

BY repealing and reenacting, with amendments,
Chapter 711 of the Acts of the General Assembly of 2009, as amended by Chapter 103 of the Acts of the General Assembly of 2011
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Chapter 711 of the Acts of 2009, as amended by Chapter 103 of the Acts of 2011

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2010, contingent on the receipt by the Governor's Office of Crime Control and Prevention of federal funds under the American Recovery and Reinvestment Act of 2009 to fund implementation of the notification requirements under this Act and if federal funds are not received for this purpose by January 1, 2010, this Act shall be null and void without the necessity of further action by the General Assembly. It shall remain effective for a period of **[**4**]** ~~**6**~~ **7** years and, at the end of December 31, **[**2013**]** ~~**2015**~~ **2016**, 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 shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 80

(House Bill 96)

AN ACT concerning

Natural Resources – Restricted Shellfish Harvest Areas – Water Testing

FOR the purpose of repealing the requirement that the Department of the Environment test the waters in restricted shellfish harvest areas at certain frequencies under certain circumstances; and generally relating to testing the waters in restricted shellfish harvest areas.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–742
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

4–742.

(a) (1) If the Department of the Environment determines by appropriate investigation that any area of waters of the State devoted to the production or storage of shellfish is polluted so that shellfish produced or stored in the area are a hazard to public health, it shall restrict the area for the catching or storing of shellfish.

(2) If the Department of the Environment finds it necessary to restrict an area of water for the taking and storing of shellfish because of the proximity of the area to the point of discharge of a sewage treatment plant or a point of overflow of a sewage pumping station, the Department of the Environment may increase or decrease the size of a restricted area in relation to the operational effectiveness of the sewage treatment plant or sewage pumping station.

(3) In determining whether to restrict, or lift any restrictions on, an area for the catching or storing of shellfish, the Department of the Environment shall use the most reliable available tests to:

(i) Determine whether a shellfish production area poses a risk to consumer health; and

(ii) Rule out contaminants that do not pose a risk to consumer health, including bacteria from vegetation.

(b) (1) The action of the Department of the Environment to restrict an area of water becomes effective immediately upon giving formal notice of the action to the Department. Notice also shall be given the appropriate governing body and the committee of oystermen of any county affected by the restriction.

(2) The Natural Resources Police Force shall patrol the area to warn watermen until public notice is given in newspapers of general circulation in each of the counties whose watermen work the restricted area normally. No arrests may be made until the next workday following the day the notice appeared unless the watermen fail to heed a warning of the officers.

(3) (i) If the Department of the Environment closes any area to the catching of shellfish under this section, in addition to the notice required in paragraph (1) of this subsection, the Department of Natural Resources shall mark the area so that the area can be seen from the water.

(ii) The Department of Natural Resources shall adopt rules and regulations to provide for the marking in a plain and visibly obvious fashion of any area that is closed to the catching of shellfish because of pollution. Even in the absence of such marking devices, a person may not catch shellfish in a restricted area as designated by the Department of the Environment if notice has been given to the appropriate governing body and the committee of watermen of any county affected by the restriction.

(c) (1) After establishing a restriction, the Department of the Environment shall test the water in the restricted area or inspect the source of pollution of the water **[**at least twice monthly, or more frequently if requested by the appropriate governing body of any county affected by the restriction**]**. A copy of the report of analysis of every test and inspection shall be filed promptly with the appropriate governing body of every county affected by the restriction.

(2) Updated charts of the Chesapeake Bay and its tributaries showing all polluted areas shall be filed promptly with the appropriate governing body and oystermen's committee of every tidewater county. Copies of these charts shall be filed also with the Fisheries Administration and the Natural Resources Police.

(d) Whenever samples of water and shellfish of a restricted area indicate that the shellfish and water again comply with standards for harvesting shellfish, the restrictions promptly shall be lifted.

(e) The Secretary of the Environment may delegate authority to impose restrictions, or remove restrictions no longer required. These actions, however, shall be reported and consented to by the Secretary.

(f) Each violation of this section constitutes a separate offense punishable as provided by the provisions 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 81

(House Bill 97)

AN ACT concerning

Environment – Sediment Control and Stormwater Management Plans – Authority

FOR the purpose of authorizing the Department of the Environment to designate certain sediment control plan and stormwater management plan review and approval authority; and generally relating to the review and approval of sediment control and stormwater management plans.

BY repealing and reenacting, with amendments,
Article – Environment

Section 4–105(a), 4–106, and 4–205
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

4–105.

(a) (1) (i) In this section, "construction" means land clearing, grubbing, topsoil stripping, soil movement, grading, cutting and filling, transporting, or otherwise disturbing land for any purpose.

(ii) "Construction" includes land disturbing activities for the purpose of:

1. Constructing buildings;

2. Mining minerals;

3. Developing golf courses; and

4. Constructing roads and installing utilities.

(2) (i) Before any person begins any construction, the appropriate approval authority shall first receive, review, and approve the proposed earth change and the sediment control plan.

(ii) Except as provided in subsection (b) of this section, the approval authority is:

1. The appropriate soil conservation district;

2. A municipal corporation in Montgomery County that is designated by a soil conservation district under paragraph (6) of this subsection;

3. Any municipality not within a soil conservation district;

4. If a State or federal unit undertakes any construction, the Department **OR THE DEPARTMENT'S DESIGNEE**; or

5. For abandoned mine reclamation projects conducted by the Department pursuant to Title 15, Subtitles 5, 6, and 11 of this article, the Department.

(iii) Criteria used by the Department **OR THE DEPARTMENT'S DESIGNEE** for review and approvals under subparagraph (ii)4 of this paragraph:

1. Shall meet or exceed current Maryland standards and specifications for soil erosion and sediment control; or

2. If alternative standards are applied, shall be reviewed and approved by the Department.

(3) A person may not begin or perform any construction unless the person:

(i) Obtains an approved sediment control plan;

(ii) Implements the measures contained in the approved sediment control plan;

(iii) Conducts the construction as specified in the sequence of construction contained in the approved sediment control plan;

(iv) Maintains the provisions of the approved sediment control plan; and

(v) Implements any sediment control measures reasonably necessary to control sediment runoff.

(4) In consultation with the person responsible for performing the construction, the Department, jurisdictions delegated enforcement authority under § 4–103(e)(2) of this subtitle, or the appropriate approval agency may require modifications to an approved sediment control plan if the approved plan is not adequate to control sediment or erosion.

(5) A person performing construction that proposes a major change to an approved sediment control plan shall submit the proposed change to the appropriate approval authority for review and approval.

(6) A soil conservation district may delegate approval authority under paragraph (2) of this subsection to a municipal corporation in Montgomery County that:

(i) Has its own sediment control review provisions that are at least as stringent as the provisions of the grading and sediment control plan of the soil conservation district;

(ii) Issues sediment control permits; and

(iii) Meets the necessary performance standards established by written agreement between the district and the municipal corporation.

4–106.

If a State or federal unit undertakes any construction as defined in § 4–105(a)(1) of this subtitle, the Department **[**of the Environment**]** **OR THE DEPARTMENT'S DESIGNEE** shall review and approve this action and enforce the provisions of this subtitle and any plans approved under this subtitle.

4–205.

(a) The provisions of § 4–204 of this subtitle do not apply to the construction activities of State or federal agencies.

(b) After July 1, 1984, a State or federal agency may not undertake any land clearing, soil movement, or construction activity involving soil movement unless the agency has submitted and obtained approval of a stormwater management plan from the Department **OR THE DEPARTMENT'S DESIGNEE**.

(c) (1) On the request of a county or municipality, the Department **[**of the Environment**]** **OR THE DEPARTMENT'S DESIGNEE** shall require that a State or federal agency submit a stormwater management plan to the requesting jurisdiction for review and comment, which review and comment shall be completed, returned, and received by the State or federal agency within 21 calendar days of receipt of the plan.

(2) The Department **OR THE DEPARTMENT'S DESIGNEE** shall require that the State or federal agency include the local jurisdictions' comments that are received within the time period required under paragraph (1) of this subsection as part of its stormwater management plan which is submitted for approval to the Department.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 82

(House Bill 108)

AN ACT concerning

Housing and Community Development – Neighborhood and Community Assistance Program – Project Proposals

FOR the purpose of increasing the maximum sum of contributions for certain projects under the Neighborhood and Community Assistance Program that are eligible for a certain tax credit; authorizing the Department of Housing and Community Development to give preference to a proposal for a certain project that benefits a certain neighborhood conservation district; and generally relating to project proposals under the Neighborhood and Community Assistance Program.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 6–405
Annotated Code of Maryland
(2006 Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Housing and Community Development

6–405.

(a) (1) For each fiscal year, a nonprofit organization may submit to the Department, for approval under the Neighborhood and Community Assistance Program, a proposal for a project to provide services to a priority funding area.

(2) The project may include:

(i) community services, including child care and recreational services;

(ii) redevelopment assistance;

(iii) job training for individuals whose incomes do not exceed the upper income limits that the Secretary sets under § 4–212 of this article;

(iv) education; and

(v) crime prevention.

(b) A proposal under this section shall include:

(1) the project to be conducted;

(2) the priority funding area that will benefit from the project;

(3) a description of the applicant's experience and capabilities;

(4) the estimated costs of the project;

(5) a description of the plans for implementing the project; and

(6) any other information that the Department determines is necessary.

(c) (1) The Department may not approve a proposal submitted under this section unless the proposal is approved by the governing body or authorized designee of:

(i) each county that includes any of the priority funding area that benefits from the project, if the project is not in a municipal corporation;

(ii) each municipal corporation that includes any of the priority funding area that benefits from the project; or

(iii) each political subdivision that includes any of the priority funding area that benefits from the project, if the priority funding area is partly within and partly outside of any municipal corporation.

(2) An approval shall:

(i) be in writing; and

(ii) state the maximum amount of contributions to the approved project that are eligible for a tax credit under § 6–404 of this subtitle.

(3) The sum of contributions eligible for a tax credit under § 6–404 of this subtitle for all approved projects for a fiscal year may not exceed **[**$2,000,000**]** **$3,500,000**.

(d) In approving or disapproving a proposal and in determining the maximum amount of contributions eligible for tax credits under § 6–404 of this subtitle, the Department:

(1) shall consider:

(i) the need for the project in relation to the need for other proposed projects;

(ii) the anticipated benefit to the priority funding area;

(iii) the capacity of the applicant to raise money for the project;

(iv) the readiness of the applicant to proceed with the project;

(v) the ability of the applicant to complete the project as proposed;

(vi) the geographic distribution of projects; and

(vii) any other relevant factors;

(2) may give preference to a proposal that benefits**:**

(I) a sustainable community under § 6–305 of this title; **OR**

(II) A NEIGHBORHOOD CONSERVATION DISTRICT ~~**DESIGNATED UNDER THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S NEIGHBORHOOD STABILIZATION PROGRAM;**~~ **THAT IS LOCALLY DESIGNATED IN COORDINATION WITH THE DEPARTMENT'S NEIGHBORHOOD AND COMMUNITY ASSISTANCE PROGRAM;**

(3) may request data and assistance from other units of the State; and

(4) shall apportion among all approved projects the limit imposed by subsection (c)(3) of 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 83

(House Bill 136)

AN ACT concerning

State Personnel – Teleworking – ~~**Eligibility**~~ **Statewide Program and Goals**

FOR the purpose of requiring ~~that at least a certain percentage of certain State employees participate in certain telework programs; providing that this Act applies to all employees in the Executive Branch of State government; authorizing certain supervisors to approve certain requests to telework under certain circumstances; requiring certain supervisors to provide certain State employees certain information in writing; requiring the Department of Budget and Management to submit certain reports to the General Assembly~~ the

Secretary of Budget and Management to establish a statewide telework program and adopt a statewide telework policy and telework guidelines; authorizing the head of a unit in the Executive Branch of State government to designate positions for which employees are eligible to telework; requiring a unit in the Executive Branch of State government to have a goal of a certain percentage of the eligible employees in the unit participating in a certain telework program; providing for the application of this Act; defining a certain term; and generally relating to a statewide telework program and telework goals for State personnel ~~and eligibility to telework~~.

BY adding to
Article – State Personnel and Pensions
Section 2–308
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

2–308.

(A) IN THIS SECTION, "TELEWORK" MEANS TO WORK AT A LOCATION OTHER THAN A TRADITIONAL OFFICE SETTING OR AN EMPLOYEE'S USUAL AND CUSTOMARY WORKSITE, INCLUDING:

(1) THE EMPLOYEE'S HOME;

(2) A SATELLITE OFFICE; AND

(3) A TELEWORK CENTER.

~~(A)~~ (B) THIS SECTION APPLIES TO:

(1) ALL EMPLOYEES IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT; AND

(2) ALL UNITS IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, INCLUDING UNITS WITH INDEPENDENT PERSONNEL SYSTEMS.

(C) THE SECRETARY SHALL:

(1) ESTABLISH A STATEWIDE TELEWORK PROGRAM; AND

(2) ADOPT A STATEWIDE TELEWORK POLICY AND TELEWORK GUIDELINES.

(D) (1) THE HEAD OF A UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT MAY DESIGNATE THE POSITIONS FOR WHICH AN EMPLOYEE WOULD BE ELIGIBLE TO TELEWORK.

(2) A UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT SHALL HAVE A GOAL OF AT LEAST 15% OF ELIGIBLE EMPLOYEES PARTICIPATING IN THE STATEWIDE TELEWORK PROGRAM ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

~~**(B) AT LEAST 20% OF ELIGIBLE, NONESSENTIAL STATE EMPLOYEES SHALL PARTICIPATE IN A TELEWORK PROGRAM.**~~

~~**(C) (1) IF A STATE EMPLOYEE REQUESTS TO BECOME A TELEWORKER, THE SUPERVISOR OF THE EMPLOYEE MAY APPROVE THE REQUEST OF THE EMPLOYEE TO TELEWORK UNLESS THE SUPERVISOR DETERMINES THAT THE EMPLOYEE'S POSITION IS NOT SUITABLE FOR TELEWORKING.**~~

~~**(2) A SUPERVISOR WHO DENIES A STATE EMPLOYEE'S REQUEST TO TELEWORK SHALL PROVIDE TO THE STATE EMPLOYEE A WRITTEN DESCRIPTION OF THE FACTORS CONTRIBUTING TO THE SUPERVISOR'S DENIAL.**~~

~~**(D) 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 NUMBER OF EMPLOYEES IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT WHO:**~~

~~**(I) PARTICIPATED IN A TELEWORK PROGRAM; AND**~~

~~**(II) APPLIED TO TELEWORK;**~~

~~**(2) EFFORTS TO EXPAND THE NUMBER OF STATE EMPLOYEES WHO TELEWORK; AND**~~

~~**(3) ANY OTHER INNOVATIVE PRACTICES DESIGNED TO REDUCE THE NUMBER OF STATE EMPLOYEES COMMUTING TO WORK.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 84

(House Bill 164)

AN ACT concerning

Department of Health and Mental Hygiene – Regulatory Authority – Permit and Licensing Renewals and Building Plan Reviews

FOR the purpose of lengthening the renewal period for tissue bank permits and residential service agency licenses; altering the entity to which certain food establishments must submit for review certain plans and specifications before the construction, remodeling, or alteration of the food establishments; providing for a delayed effective date for certain provisions of this Act; making conforming changes; and generally relating to the regulatory authority of the Department of Health and Mental Hygiene and permit and licensure renewals and building plan reviews.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 17–310(a) and (c), 19–4A–03(b), and 21–321
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 17–310(b) and 19–4A–03(a) and (c)
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

17–310.

(a) A permit expires on the first anniversary of its effective date, unless the permit is renewed for a **[**1–year**]** **2–YEAR** term as provided in this section.

(b) At least 1 month before the permit expires, the Department shall send to the permit holder, by first–class mail to the last known address of the holder, a renewal notice that states:

(1) The date on which the current permit expires;

(2) The date by which the renewal application must be received by the Secretary for the renewal to be issued and mailed before the permit expires; and

(3) The amount of the renewal fee.

(c) Before the permit expires, the permit holder periodically may renew it for an additional **[**1–year**] 2–YEAR** term, if the permit holder:

(1) Otherwise is entitled to the permit;

(2) Pays to the Department the renewal fee set by the Secretary; and

(3) Submits to the Secretary:

(i) A renewal application on the form that the Secretary requires; and

(ii) Satisfactory evidence of compliance with any standards and qualifications set under this subtitle for permit renewal.

~~19–4A–03.~~

~~(a) The Department shall adopt regulations that set standards for the care, treatment, health, safety, welfare, and comfort of individuals who receive home health care services through a residential service agency.~~

~~(b) The regulations shall provide for the licensing of residential service agencies and the **[**annual**]** renewal of licenses **FOR A 3–YEAR TERM**.~~

~~(c) The regulations shall require the Secretary to charge fees in a manner which will produce funds sufficient to at least cover the actual direct or indirect costs of the inspection and licensure of residential service agencies under this subtitle.~~

21–321.

(a) Except as provided in subsection (d) of this section, before a food establishment is constructed, remodeled, or materially altered, or before an existing building or structure is converted or remodeled for use as a food establishment, properly prepared plans and specifications for the construction, remodeling, or alteration of a food establishment shall be submitted to:

(1) The Department, if the food establishment is:

(i) **[**Except as provided in paragraph (2) of this subsection, a**] A** food processing plant; or

(ii) A chain or franchise **[**operation**] FOOD SERVICE FACILITY** planning to construct 2 or more facilities in the State from a single uniform set of plans; or

(2) **[**For all other food establishments, including a soft drink manufacturing plant**] EXCEPT AS PROVIDED IN ITEM (1)(II) OF THIS SUBSECTION, FOR FOOD SERVICE FACILITIES**, to the appropriate county health department.

(b) The plans or specifications required under subsection (a) of this section shall include:

(1) Layout and arrangement of work areas;

(2) Construction materials;

(3) The location, size, manufacturer, and model number of equipment and facilities; and

(4) Any other information that may be required for the proper review of the plans and specifications.

(c) Unless the required plans and specifications are approved by the Department, a person may not:

(1) Construct, remodel, or alter a food establishment; or

(2) Convert or remodel an existing building or structure for use as a food establishment.

(d) The provisions of this section do not apply to the construction, remodeling, or alteration of any areas in a food establishment used solely for office space, or recreational areas.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

19–4A–03.

(a) The Department shall adopt regulations that set standards for the care, treatment, health, safety, welfare, and comfort of individuals who receive home health care services through a residential service agency.

(b) The regulations shall provide for the licensing of residential service agencies and the **[**annual**]** renewal of licenses **FOR A 3–YEAR TERM**.

(c) The regulations shall require the Secretary to charge fees in a manner which will produce funds sufficient to at least cover the actual direct or indirect costs of the inspection and licensure of residential service agencies under this subtitle.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2014.

SECTION ~~2.~~ 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, April 9, 2013.

Chapter 85

(House Bill 172)

AN ACT concerning

Charles County – Alcoholic Beverages Licensees – Nonalcoholic Items – Hours of Sale

FOR the purpose of specifying the days and hours during which alcoholic beverages licensees in Charles County may sell nonalcoholic items; making stylistic changes; and generally relating to alcoholic beverages licensees in Charles County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–509
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

11–509.

(a) **(1) THIS SECTION APPLIES ONLY IN CHARLES COUNTY.**

(2) **[**In Charles County, notwithstanding**]** **NOTWITHSTANDING** any other provisions of this subtitle, the hours of sale for alcoholic beverages shall be as follows:

[(1)**]** **(I)** Monday, 6 a.m. to Tuesday, 2 a.m.

[(2)**]** **(II)** Tuesday, 6 a.m. to Wednesday, 2 a.m.

[(3)**]** **(III)** Wednesday, 6 a.m. to Thursday, 2 a.m.

[(4)**]** **(IV)** Thursday, 6 a.m. to Friday, 2 a.m.

[(5)**]** **(V)** Friday, 6 a.m. to Saturday, 2 a.m.

[(6)**]** **(VI)** Saturday, 6 a.m. to Sunday, 2 a.m.

[(7)**]** **(VII)** Sunday, 6 a.m. to Sunday, midnight.

(3) AN ALCOHOLIC BEVERAGES LICENSEE MAY SELL NONALCOHOLIC ITEMS ON:

(I) MONDAY THROUGH SATURDAY, FROM 5 A.M. TO 2 A.M. THE NEXT DAY; AND

(II) SUNDAY, FROM 6 A.M. TO MIDNIGHT.

(b) It is unlawful for any licensee, his agent or employee, to sell any alcoholic beverages on any day between the hours of 2 o'clock a.m. and 6 o'clock a.m. and that part of any premises where alcoholic beverages are sold or displayed shall be open only during the hours of sale for alcoholic beverages set out in subsection (a) of this section. In the case of any on–sale class of license, all bottles and containers must be removed from the table on or before the hours of closing indicated in subsection (a) of this section. It is unlawful to sell any alcoholic beverages between midnight, Sunday, and 6 o'clock a.m. Monday.

(c) The hours established in this section for the sale of alcoholic beverages are hereby declared to be in accordance with Eastern Standard Time whenever such time is in effect or in accordance with daylight time whenever such time is in effect. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon trial and conviction shall be subjected to a fine of not less than fifty dollars ($50.00) nor more than two hundred and fifty dollars ($250.00), or may be

confined in the county jail or in the house of correction for not less than sixty days, or both, in the discretion of the court.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 86

(House Bill 182)

AN ACT concerning

Business Regulation – Other Tobacco Products Wholesalers – License Fee Exception for Cigarette Subwholesalers

FOR the purpose of exempting a person who is licensed under a certain provision of law to act as a cigarette subwholesaler from the requirement that an applicant for a license to act as an other tobacco products wholesaler pay a certain license fee; and generally relating to license fee requirements for other tobacco products wholesalers.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 16.5–203(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 – Business Regulation

16.5–203.

(d) (1) An applicant for a license to act as an other tobacco products wholesaler shall:

(i) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(ii) except as provided in paragraph (2) of this subsection, pay to the Comptroller a fee of $250.

(2) A person who has a license issued under Title 16 of this article to act as a cigarette wholesaler **OR TO ACT AS A CIGARETTE SUBWHOLESALER** is not required to pay the license fee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 87

(House Bill 213)

AN ACT concerning

Queen Anne's County – Alcoholic Beverages – Inspectors

FOR the purpose of repealing a requirement that the alcoholic beverages inspector that the Board of License Commissioners of Queen Anne's County is required to appoint be a full–time inspector; and generally relating to alcoholic beverages inspectors in Queen Anne's County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 15–112(a)(3)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–112(s)
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

15–112.

(a) (3) In this section, "Board" means the Board of License Commissioners, unless otherwise noted.

(s) (1) This subsection applies only in Queen Anne's County.

(2) The Board shall appoint **[**a full–time**]** **AN** inspector and fix the inspector's compensation at an amount not less than $3,000 a year, plus a mileage allowance as determined by the County Commissioners. The inspector shall visit and inspect every premises in the county licensed under the provisions of this article at least every 60 days.

(3) The Board of County Commissioners also shall appoint an attorney to handle legal matters for the Board and set the attorney's compensation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 88

(House Bill 230)

AN ACT concerning

Alcoholic Beverages – Farm Breweries and Micro–Breweries

FOR the purpose of adding the holder of a Class 7 micro–brewery license to the list of licensees with whom a holder of a Class 8 farm brewery license may contract to brew and bottle beer from ingredients produced on the licensed farm; authorizing the Comptroller to issue in Howard County one Class 8 farm brewery license to a person that holds not more than a certain number of Class B beer, wine and liquor licenses; making certain stylistic changes; and generally relating to holders and issuance of Class 8 farm brewery licenses.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 2–209(a)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–208(c)(1) and 2–209(c)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages

Section 12–104(e)(7)
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.

(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 2 RECTIFYING LICENSE HELD UNDER § 2–203 OF THIS SUBTITLE, A** Class 5 brewery license, a Class 7 micro–brewery license, or **[**a Class 2 rectifying license held under § 2–203 of this subtitle**] A CLASS 8 FARM BREWERY LICENSE,** 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.

2–209.

(a) (1) There is a Class 8 farm brewery license.

(c) A licensee may:

(1) Store on its licensed farm, in a segregated area approved by the Comptroller, beer produced at the licensed farm for sale and delivery to a wholesaler licensed in the State or a person outside of the State authorized to acquire the beer;

(2) Brew, bottle, or contract for not more than 15,000 barrels of beer each calendar year;

(3) Contract with the holder of a **CLASS 2 RECTIFYING LICENSE, A** Class 5 brewery license**, [**or a Class 2 rectifying license**] OR A CLASS 7 MICRO–BREWERY LICENSE** to brew and bottle beer from ingredients produced on the licensed farm;

(4) Import, export, and transport its beer in accordance with this section; and

(5) Store beer at a warehouse for which the licensee has been issued an individual storage permit, for sale and delivery to a wholesaler licensed in the State or a person outside of the State authorized to acquire the beer, or shipment back to the licensed farm, if:

(i) The licensee does not serve or sell beer at the warehouse; and

(ii) The Comptroller has full access at all times to the warehouse to enforce this article.

12–104.

(e) **(7)** **(I)** **THIS PARAGRAPH APPLIES ONLY IN HOWARD COUNTY.**

(II) **THE COMPTROLLER MAY ISSUE ONE CLASS 8 FARM BREWERY LICENSE TO A PERSON THAT HOLDS NOT MORE THAN TWO CLASS B BEER, WINE AND LIQUOR LICENSES.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 89

(House Bill 244)

AN ACT concerning

Correctional Services – Department of Public Safety and Correctional Services – Subpoena Power

FOR the purpose of authorizing the Secretary of Public Safety and Correctional Services to subpoena, administer an oath to, and examine under oath any person under certain circumstances; repealing the authority of the Commissioner of Correction to subpoena, administer an oath to, and examine under oath any person under certain circumstances; establishing penalties for failure to appear or refusal to testify in response to a certain subpoena; establishing that a person who makes a false statement under oath before the Secretary is guilty of perjury and is subject to certain penalties; and generally relating to the powers of Department of Public Safety and Correctional Services officials.

BY adding to
Article – Correctional Services
Section 2–113.1
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing
Article – Correctional Services
Section 3–204
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 – Correctional Services

2–113.1.

(A) THE SECRETARY MAY SUBPOENA, ADMINISTER AN OATH TO, AND EXAMINE UNDER OATH, ANY PERSON IF THE SECRETARY CONSIDERS IT NECESSARY FOR THE EFFECTIVE ADMINISTRATION OF THE SECRETARY'S DUTIES.

(B) A PERSON WHO FAILS TO APPEAR BEFORE THE SECRETARY OR REFUSES TO TESTIFY WHEN SUBPOENAED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500.

(C) A PERSON WHO MAKES A FALSE STATEMENT UNDER OATH BEFORE THE SECRETARY IS GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTY PROVIDED UNDER § 9–101 OF THE CRIMINAL LAW ARTICLE.

[3–204.

(a) The Commissioner may subpoena, administer an oath to, and examine under oath any person if the Commissioner considers that it is necessary for an effective administration of the Commissioner's duties.

(b) A person who fails to appear before the Commissioner or refuses to testify when subpoenaed under this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50.

(c) A person who makes a false statement under oath before the Commissioner is guilty of perjury and on conviction is subject to the penalty provided in § 9–101 of the Criminal Law Article.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 90

(House Bill 245)

AN ACT concerning

Family Law – Substance–Exposed Newborns

FOR the purpose of ~~establishing a presumption that a child is not receiving proper care and attention from the mother for purposes of determining whether a child is a child in need of assistance under certain provisions of law; altering the factors that a juvenile court is required to consider when determining whether to terminate a parent's rights;~~ requiring a health care practitioner involved in the delivery or care of a substance–exposed newborn to make a certain report to a local department of social services except under certain circumstances; specifying the contents of the report; requiring a local department of social services to take certain actions; establishing that a report made under this Act does not create a certain presumption; requiring the Secretary of Human Resources to adopt certain regulations; requiring the Department of Human Resources to submit reports to the General Assembly on or before certain dates; defining certain terms; and generally relating to substance–exposed newborns.

~~BY repealing and reenacting, with amendments,~~
~~Article – Courts and Judicial Proceedings~~
~~Section 3–818~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Family Law~~
~~Section 5–323~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume)~~

BY adding to
Article – Family Law
Section 5–704.2
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 – Courts and Judicial Proceedings**~~

~~3–818.~~

~~Within 1 year after a child's birth, there is a presumption that a child is not receiving proper care and attention from the mother for purposes of § 3–801(f)(2) of this subtitle if:~~

~~(1)~~ **[**~~(i) The child was born exposed to cocaine, heroin, methamphetamine, or a derivative of cocaine, heroin, or methamphetamine as evidenced by any appropriate tests of the mother or child; or~~

~~(ii) Upon admission to a hospital for delivery of the child, the mother tested positive for cocaine, heroin, methamphetamine, or a derivative of cocaine, heroin, or methamphetamine as evidenced by any appropriate toxicology test~~**]** ~~**THE CHILD WAS IDENTIFIED AS A SUBSTANCE–EXPOSED NEWBORN AS DESCRIBED IN § 5–704.2 OF THE FAMILY LAW ARTICLE**; and~~

~~(2) Drug treatment is made available to the mother and the mother refuses the recommended level of drug treatment, or does not successfully complete the recommended level of drug treatment.~~

Article – Family Law

~~5–323.~~

~~(a)~~ **[**~~In this section, "drug" means cocaine, heroin, methamphetamine, or a derivative of cocaine, heroin, or methamphetamine.~~

~~(b)~~**]** ~~If, after consideration of factors as required in this section, a juvenile court finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the rights of the parent is in a child's best interests, the juvenile court may grant guardianship of the child without consent otherwise required under this subtitle and over the child's objection.~~

[~~(c)~~**] (B)** ~~A juvenile court need not consider any factor listed in subsection~~ **[**~~(d)~~**] (C)** ~~of this section in determining a child's best interests if, after a thorough investigation by a local department, the juvenile court finds that:~~

~~(1) the identities of the child's parents are unknown; and~~

~~(2) during the 60 days immediately after the child's adjudication as a child in need of assistance, no one has claimed to be the child's parent.~~

[~~(d)~~**] (C)** ~~Except as provided in subsection~~ **[**~~(c)~~**] (B)** ~~of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, including:~~

~~(1) (i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;~~

~~(ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and~~

~~(iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;~~

~~(2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:~~

~~(i) the extent to which the parent has maintained regular contact with:~~

~~1. the child;~~

~~2. the local department to which the child is committed; and~~

~~3. if feasible, the child's caregiver;~~

~~(ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;~~

~~(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and~~

~~(iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;~~

~~(3) whether:~~

~~(i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;~~

~~(ii) 1. [A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or~~

~~B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test~~**] THE CHILD WAS IDENTIFIED AS A SUBSTANCE–EXPOSED NEWBORN AS DESCRIBED IN § 5–704.2 OF THIS TITLE**~~; and~~

~~2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5–1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;~~

~~(iii) the parent subjected the child to:~~

~~1. chronic abuse;~~

~~2. chronic and life–threatening neglect;~~

~~3. sexual abuse; or~~

~~4. torture;~~

~~(iv) the parent has been convicted, in any state or any court of the United States, of:~~

~~1. a crime of violence against:~~

~~A. a minor offspring of the parent;~~

~~B. the child; or~~

~~C. another parent of the child; or~~

~~2. aiding or abetting, conspiring, or soliciting to commit a crime described in item 1 of this item; and~~

~~(v) the parent has involuntarily lost parental rights to a sibling of the child; and~~

~~(4) (i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;~~

~~(ii) the child's adjustment to:~~

~~1. community;~~

~~2. home;~~

~~3. placement; and~~

~~4. school;~~

~~(iii) the child's feelings about severance of the parent–child relationship; and~~

~~(iv) the likely impact of terminating parental rights on the child's well–being.~~

~~**[**(e)**] (D)** (1) A juvenile court shall consider the evidence under subsection **[**(d)(3)(i)**] (C)(3)(I)** and (ii) of this section as to a continuing or serious act or condition and may waive a local department's obligations for services described in subsection **[**(d)(1)**] (C)(1)** of this section if, after appropriate evaluation of efforts made and services offered, the juvenile court finds by clear and convincing evidence that a waiver is in the child's best interests.~~

~~(2) A juvenile court may waive a local department's obligations for services described in subsection **[**(d)(1)**] (C)(1)** of this section if the juvenile court finds~~

~~by clear and convincing evidence that one or more of the acts or circumstances listed in subsection [(d)(3)(iii)] (C)(3)(III), (iv), or (v) of this section exists.~~

~~(3) If a juvenile court waives reunification efforts under § 3–812(d) of the Courts Article, the juvenile court may not consider any factor under subsection [(d)(1)] (C)(1) of this section.~~

~~[(f)] (E) If a juvenile court finds that an act or circumstance listed in subsection [(d)(3)(iii)] (C)(3)(III), (iv), or (v) of this section exists, the juvenile court shall make a specific finding, based on facts in the record, whether return of the child to a parent's custody poses an unacceptable risk to the child's future safety.~~

~~[(g)] (F) If a parent has consented to guardianship in accordance with § 5–320(a)(1)(iii)1 of this subtitle, the loss of parental rights shall be considered voluntary.~~

5–704.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CONTROLLED DRUG" MEANS A CONTROLLED DANGEROUS SUBSTANCE INCLUDED IN SCHEDULE I, SCHEDULE II, SCHEDULE III, SCHEDULE IV, OR SCHEDULE V UNDER TITLE 5, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE.

(3) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN § 1–301 OF THE HEALTH OCCUPATIONS ARTICLE.

(4) "NEWBORN" MEANS A CHILD UNDER THE AGE OF 30 DAYS WHO IS BORN OR WHO RECEIVES CARE IN THE STATE.

(B) FOR PURPOSES OF THIS SECTION, A NEWBORN IS "SUBSTANCE–EXPOSED" IF:

(1) THE NEWBORN:

(I) DISPLAYS A POSITIVE TOXICOLOGY SCREEN FOR A CONTROLLED DRUG AS EVIDENCED BY ANY APPROPRIATE TEST AFTER BIRTH;

(II) DISPLAYS THE EFFECTS OF CONTROLLED DRUG USE OR SYMPTOMS OF WITHDRAWAL RESULTING FROM PRENATAL CONTROLLED DRUG EXPOSURE AS DETERMINED BY MEDICAL PERSONNEL; OR

(III) DISPLAYS THE EFFECTS OF A FETAL ALCOHOL SPECTRUM DISORDER; OR

(2) THE NEWBORN'S MOTHER HAD A POSITIVE TOXICOLOGY SCREEN FOR ~~ALCOHOL OR~~ A CONTROLLED DRUG ~~ON ADMISSION TO THE HOSPITAL OR~~ AT THE TIME OF DELIVERY.

(C) EXCEPT AS PROVIDED IN ~~SUBSECTION (D)~~ SUBSECTIONS (D) AND (E) OF THIS SECTION, A HEALTH CARE PRACTITIONER INVOLVED IN THE DELIVERY OR CARE OF A SUBSTANCE–EXPOSED NEWBORN SHALL:

(1) MAKE AN ORAL REPORT TO THE LOCAL DEPARTMENT AS SOON AS POSSIBLE; AND

(2) MAKE A WRITTEN REPORT TO THE LOCAL DEPARTMENT NOT LATER THAN 48 HOURS AFTER THE CONTACT, EXAMINATION, ATTENTION, TREATMENT, OR TESTING THAT PROMPTED THE REPORT.

(D) IN THE CASE OF A SUBSTANCE–EXPOSED NEWBORN IN A HOSPITAL OR BIRTHING CENTER, A HEALTH CARE PRACTITIONER SHALL NOTIFY AND PROVIDE THE INFORMATION REQUIRED UNDER THIS SECTION TO THE HEAD OF THE INSTITUTION OR THE DESIGNEE OF THE HEAD.

(E) A HEALTH CARE PRACTITIONER IS NOT REQUIRED TO MAKE A REPORT UNDER THIS SECTION IF THE HEALTH CARE PRACTITIONER:

(1) HAS KNOWLEDGE THAT THE HEAD OF AN INSTITUTION OR THE DESIGNEE OF THE HEAD OR ANOTHER INDIVIDUAL AT THAT INSTITUTION HAS MADE A REPORT REGARDING THE SUBSTANCE–EXPOSED NEWBORN;

(2) HAS VERIFIED THAT, AT THE TIME OF DELIVERY, THE MOTHER WAS USING A CONTROLLED SUBSTANCE AS CURRENTLY PRESCRIBED FOR THE MOTHER BY A LICENSED HEALTH CARE PRACTITIONER; OR

(3) HAS VERIFIED THAT, AT THE TIME OF DELIVERY, THE PRESENCE OF THE CONTROLLED SUBSTANCE WAS ~~A RESULT OF A~~ CONSISTENT WITH A PRESCRIBED MEDICAL OR DRUG TREATMENT ADMINISTERED TO THE MOTHER OR THE NEWBORN.

(F) TO THE EXTENT KNOWN, AN INDIVIDUAL WHO MAKES A REPORT UNDER THIS SECTION SHALL INCLUDE IN THE REPORT THE FOLLOWING INFORMATION:

(1) THE NAME, DATE OF BIRTH, AND HOME ADDRESS OF THE NEWBORN;

(2) THE NAMES AND HOME ADDRESSES OF THE NEWBORN'S PARENTS;

(3) THE NATURE AND EXTENT OF THE EFFECTS OF THE PRENATAL ALCOHOL OR DRUG EXPOSURE ON THE NEWBORN;

(4) THE NATURE AND EXTENT OF THE IMPACT OF THE PRENATAL ALCOHOL OR DRUG EXPOSURE ON THE MOTHER'S ABILITY TO PROVIDE PROPER CARE AND ATTENTION TO THE NEWBORN;

(5) THE NATURE AND EXTENT OF THE RISK OF HARM TO THE NEWBORN; AND

(6) ANY OTHER INFORMATION THAT WOULD SUPPORT A CONCLUSION THAT THE NEEDS OF THE NEWBORN REQUIRE A PROMPT ASSESSMENT OF RISK AND SAFETY, THE DEVELOPMENT OF A PLAN OF SAFE CARE FOR THE NEWBORN, AND REFERRAL OF THE FAMILY FOR APPROPRIATE SERVICES~~; AND~~

~~(7) THE EXTENT TO WHICH THE NEWBORN'S FATHER OR OTHER INDIVIDUAL IS AVAILABLE AND ABLE TO PROVIDE PROPER CARE AND ATTENTION TO THE NEWBORN~~.

(G) WITHIN 48 HOURS AFTER RECEIVING THE NOTIFICATION PURSUANT TO SUBSECTION (C) OF THIS SECTION, THE LOCAL DEPARTMENT SHALL:

(1) SEE THE NEWBORN IN PERSON;

(2) CONSULT WITH A HEALTH CARE PRACTITIONER WITH KNOWLEDGE OF THE NEWBORN'S CONDITION AND THE EFFECTS OF ANY PRENATAL ALCOHOL OR DRUG EXPOSURE; AND

(3) ATTEMPT TO INTERVIEW THE NEWBORN'S MOTHER AND ANY OTHER INDIVIDUAL RESPONSIBLE FOR CARE OF THE NEWBORN.

(H) (1) PROMPTLY AFTER RECEIVING A REPORT UNDER SUBSECTION (C) OF THIS SECTION, THE LOCAL DEPARTMENT SHALL~~:~~

~~(1)~~ ASSESS THE RISK OF HARM TO AND THE SAFETY OF THE NEWBORN~~;~~ TO DETERMINE WHETHER ANY FURTHER INTERVENTION IS NECESSARY.

(2) IF THE LOCAL DEPARTMENT DETERMINES THAT FURTHER INTERVENTION IS NECESSARY, THE LOCAL DEPARTMENT SHALL:

(I) DEVELOP A PLAN OF SAFE CARE FOR THE NEWBORN;

~~(3)~~ (II) ASSESS AND REFER THE FAMILY FOR APPROPRIATE SERVICES, INCLUDING ALCOHOL OR DRUG TREATMENT; AND

~~(4)~~ (III) AS NECESSARY, DEVELOP A PLAN TO MONITOR THE SAFETY OF THE NEWBORN AND THE FAMILY'S PARTICIPATION IN APPROPRIATE SERVICES.

(I) A REPORT MADE UNDER THIS SECTION DOES NOT CREATE A PRESUMPTION THAT A CHILD HAS BEEN OR WILL BE ABUSED OR NEGLECTED.

(J) THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before October 1, 2014, the Department of Human Resources shall submit a preliminary report to the General Assembly, in accordance with § 2–1246 of the State Government Article.

(b) On or before October 1, 2015, the Department of Human Resources shall submit a final report to the General Assembly in accordance with § 2–1246 of the State Government Article.

(c) The reports required under subsections (a) and (b) of this section shall include:

(1) the number of assessments conducted by the Department of Human Resources in response to reports submitted under Section 1 of this Act;

(2) the outcomes of any assessments conducted;

(3) the number of mothers referred to substance abuse treatments as a result of reports made under Section 1 of this Act; and

(4) the number of cases arising under Section 1 of this Act that resulted in a termination of parental rights.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 91

(House Bill 247)

AN ACT concerning

Criminal Procedure – Criminal Justice Information System Central Repository – Administration

FOR the purpose of establishing that the Criminal Justice Information System Central Repository is the official State repository for criminal history record information; specifying the duties of the Central Repository; and generally relating to the responsibilities of the Central Repository.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 10–213
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 – Criminal Procedure

10–213.

(a) There is a Criminal Justice Information System Central Repository in the Department.

(b) The Secretary:

(1) has administrative control of the Central Repository; and

(2) shall operate the Central Repository with the advice of the Advisory Board.

(C) (1) THE CENTRAL REPOSITORY IS THE OFFICIAL STATE REPOSITORY FOR CRIMINAL HISTORY RECORD INFORMATION.

(2) THE CENTRAL REPOSITORY:

(I) SHALL MAINTAIN AND DISSEMINATE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER THIS SUBTITLE; AND

(II) MAY MAINTAIN A REPOSITORY OF FINGERPRINTS, LATENT PRINTS, PALM PRINTS, PHOTOGRAPHS, OR OTHER SUCH IDENTIFICATION SUBMITTED TO THE CENTRAL REPOSITORY AS DETERMINED BY THE SECRETARY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 92

(House Bill 254)

AN ACT concerning

Allegany County – Criminal Procedure – Custody of Arrested Persons Before Release

FOR the purpose of requiring a police officer or an agent acting on behalf of a law enforcement agency in Allegany County to keep custody of an arrested person from the time of arrest until the person is committed by lawful authority to a State or local correctional facility, released from custody, or in the custody of another police officer; authorizing a correctional officer in Allegany County assigned to supervise and transport inmates to keep custody of or provide transport for certain arrested persons under certain circumstances; and generally relating to the custody of arrested persons.

BY adding to
Article – Criminal Procedure
Section 2–106.1
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 – Criminal Procedure

2–106.1.

(A) THIS SECTION APPLIES ONLY IN ALLEGANY COUNTY.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A POLICE OFFICER OR AN AGENT ACTING ON BEHALF OF A LAW ENFORCEMENT AGENCY SHALL KEEP CUSTODY OF AN ARRESTED PERSON FROM THE TIME OF ARREST UNTIL THE ARRESTED PERSON IS:

(1) COMMITTED BY LAWFUL AUTHORITY TO A STATE OR LOCAL CORRECTIONAL FACILITY;

(2) RELEASED FROM CUSTODY; OR

(3) IN THE CUSTODY OF ANOTHER POLICE OFFICER.

(C) A CORRECTIONAL OFFICER MAY KEEP CUSTODY OF OR PROVIDE TRANSPORT FOR AN ARRESTED PERSON WHO IS AWAITING TRANSFER TO ANOTHER JURISDICTION OR WAITING TO SEE A JUDICIAL OFFICER OF THE COURT IF:

(1) THE COMMISSIONER OF THE DIVISION OF PRETRIAL DETENTION AND SERVICES OR LOCAL MANAGING OFFICIAL HAS ASSIGNED THE CORRECTIONAL OFFICER TO SUPERVISE AND TRANSPORT INMATES;

(2) THE CORRECTIONAL OFFICER WILL SUPERVISE THE ARRESTED PERSON IN A CORRECTIONAL FACILITY OR DURING TRANSPORT; AND

(3) THE CORRECTIONAL FACILITY IS NOT ADDRESSING A SITUATION THAT POSES A SEVERE THREAT TO MAINTAINING THE DESIRED LEVEL OF SECURITY AND SAFETY OF THE ARRESTED PERSON OR PERSONS INSIDE THE CORRECTIONAL FACILITY AT THE TIME OF THE TRANSFER OF CUSTODY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 93

(House Bill 255)

AN ACT concerning

Allegany County – Correctional Officers' Bill of Rights

FOR the purpose of adding Allegany County to the provisions of law relating to the Cecil County, Garrett County, and St. Mary's County Correctional Officers' Bill of Rights; and generally relating to the Correctional Officers' Bill of Rights.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 11–1002
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 – Correctional Services

11–1002.

This subtitle applies only in **ALLEGANY COUNTY,** Cecil County, Garrett County, and St. Mary's County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 94

(House Bill 257)

AN ACT concerning

St. Mary's County – Adult ~~Protective Services~~ Public Guardianship Review Board – Membership Requirements

FOR the purpose of repealing the requirement that a psychiatrist or psychologist member of the Adult ~~Protective Services~~ Public Guardianship Review Board in St. Mary's County be from the local health department; and generally relating to the Adult ~~Protective Services~~ Public Guardianship Review Board in St. Mary's County.

BY repealing and reenacting, with amendments,

Article – Family Law
Section 14–402(a)(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 – Family Law

14–402.

(a) (2) Of the 11 members:

(i) 1 shall be a professional representative of a local department;

(ii) 1. in counties other than St. Mary's County, 2 shall be physicians, including 1 psychiatrist from a local health department that employs psychiatrists; and

2. in St. Mary's County, 1 shall be a physician other than a psychiatrist and 1 shall be a psychiatrist or psychologist **[**from the local health department**]**;

(iii) 1 shall be a representative of a local commission on aging;

(iv) 1 shall be a professional representative of a local nonprofit social service organization;

(v) 1 shall be a lawyer;

(vi) 2 shall be lay individuals;

(vii) 1 shall be a public health nurse;

(viii) 1 shall be a professional in the field of disabilities; and

(ix) 1 shall be a person with a physical disability.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 95

(House Bill 268)

AN ACT concerning

University of Maryland Center for Environmental Science – Joint Graduate Degree Granting Authority

FOR the purpose of authorizing the Board of Regents of the University System of Maryland, subject to certain approvals, to authorize the University of Maryland Center for Environmental Science to award certain joint graduate degrees and post baccalaureate certificates; altering the definition of "public senior higher education institution" to include the Center; and generally relating to the degree granting authority of the University of Maryland Center for Environmental Science.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–403(a)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Education
Section 10–101(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 10–101(m)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 12–104(o)
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 – Natural Resources

3–403.

(a) The University of Maryland Center for Environmental Science shall conduct a comprehensive program to develop and apply predictive ecology for Maryland to the improvement and preservation of the physical environment, through a program of research, public service, and education. The University of Maryland Center for Environmental Science shall perform the following functions:

(1) Maintain liaison with the State to identify the important regional and environmental problems, including the relationship to the use of the waters of the State and in particular those environmental problems affecting the waters of the Chesapeake Bay;

(2) Inventory appropriate:

(i) Professional individuals;

(ii) Organizations which are private, public, and commercial;

(iii) Facilities; and

(iv) Programs, including:

1. Educational;

2. Research and development; and

3. Public service;

(3) Arrange or prepare critical reviews, analyses, summaries of present levels of understanding and technical status reports on topical environmental problems, in formats ranging in depth from informal consultation to formal reports;

(4) Assist the development and coordination of single or multidisciplinary programs and projects on the environment at public and private educational and research institutes;

(5) Develop and promote environmental educational programs in the State;

(6) Conduct environmental research programs;

(7) Implement a program of environmental education to include participation in undergraduate and graduate collegiate programs, assist public and private educational systems, and participate in the education of the public and environmental fields;

(8) IMPLEMENT JOINT GRADUATE DEGREE PROGRAMS AND POST BACCALAUREATE CERTIFICATE PROGRAMS, IF AUTHORIZED BY THE MARYLAND HIGHER EDUCATION COMMISSION AND THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND IN ACCORDANCE WITH THE EDUCATION ARTICLE;

[(8)**] (9)** Perform other acts of public service relating to the environment in the best interest of the citizens of the State; and

[(9)**] (10)** Implement the application of the institutional and physical resources of the University to the needs of State agencies in environmental matters.

Article – Education

10–101.

(a) In this division the following words have the meanings indicated.

(m) "Public senior higher education institution" means:

(1) The constituent institutions of the University System of Maryland **AND THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE**;

(2) Morgan State University; and

(3) St. Mary's College of Maryland.

12–104.

(O) SUBJECT TO TITLE 11, SUBTITLE 2 OF THIS ARTICLE, THE BOARD OF REGENTS MAY AUTHORIZE THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE TO:

(1) AWARD GRADUATE DEGREES IN MARINE AND ENVIRONMENTAL SCIENCES JOINTLY WITH ANOTHER PUBLIC SENIOR HIGHER EDUCATION INSTITUTION; AND

(2) AWARD POST BACCALAUREATE CERTIFICATES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 96

(House Bill 288)

AN ACT concerning

St. Mary's County – Public Facility Bonds

FOR the purpose of authorizing and empowering the County Commissioners of St. Mary's County, from time to time, to borrow not more than $30,000,000 in order to finance the construction, improvement, or development of certain public facilities in St. Mary's County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of St. Mary's County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as highways, roads, bridges and storm drains, public school buildings and facilities, boating facilities, shore erosion and other marine property, landfills, and recycling facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, capital improvements to the Wicomico Shores Taxing District, County athletic facilities, the community college, community swimming pools, public safety, health, and social services, libraries, commuter air service facilities, refuse disposal buildings and facilities, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, $30,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be in the best interests of St. Mary's County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in a bond order pursuant to the bond resolution. The bonds may be issued in registered form and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of St. Mary's County or such other official of St. Mary's County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in

each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied under this Act may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County in such an amount as shall be necessary for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby

declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of St. Mary's County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 97

(House Bill 338)

AN ACT concerning

Criminal Law – Robbery – Charging Document

FOR the purpose of altering the minimum value of property or service specified in a charging document for robbery; and generally relating to robbery of property or service.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–404
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

3–404.

(a) An indictment, information, warrant, or other charging document for robbery is sufficient if it substantially states:

"(name of defendant) on (date) in (county) did feloniously rob (name of victim) of (property/service) (having a value of **[**$500**] $1,000** or more) (with a dangerous weapon) in violation of (section violated) against the peace, government, and dignity of the State.".

(b) If a charging document alleges that the value of the property or service subject to this subtitle is **[**$500**] $1,000** or more, the court shall instruct the jury to determine whether the value of the property or service is less than **[**$500**] $1,000**, or **[**$500**] $1,000** or more.

(c) Unless a charging document alleges that the value of the property or service subject to this subtitle is **[**$500**] $1,000** or more, a felony violation of § 7–104 of this article is not a lesser included crime of robbery.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 98

(House Bill 348)

AN ACT concerning

Unemployment Insurance – Employer Contributions – Application for Refund or Adjustment

FOR the purpose of extending the time period during which an employer may apply to the Secretary of Labor, Licensing, and Regulation for an adjustment to unemployment insurance contributions due or a refund of unemployment contributions or interest paid; and generally relating to applications for a refund of or adjustment to unemployment insurance employer contributions.

BY repealing and reenacting, with amendments,
Article – Labor and Employment

Section 8–638
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

8–638.

(a) An employer that has paid to the Secretary, wholly or partly, contributions or interest alleged to be due may submit to the Secretary an application for:

(1) an adjustment in connection with contributions then due; or

(2) if an adjustment cannot be made, a refund.

(b) An employing unit that wishes to apply for an adjustment or refund shall apply within the later of:

(1) 1 year from the date on which the payment was made; or

(2) **[**3**]** **4** years from the last day of the calendar quarter for which the payment was made.

(c) (1) If the Secretary determines that the contested amount or any part of it was collected erroneously, the Secretary shall:

(i) allow the employing unit to make an adjustment without interest to the contribution then due by the employing unit; or

(ii) if an adjustment cannot be made, refund the amount without interest.

(2) The Secretary shall refund a contribution that was collected erroneously from the Unemployment Insurance Fund and interest that was collected erroneously from the Special Administrative Expense Fund.

(3) If an employing unit reported wages that have been included in the determination of an eligible claimant for benefits, the Secretary shall reduce any adjustment or refund by the amount of benefits received by the claimant that are chargeable to the employing unit.

(d) Within the time limitation for an application under subsection (b) of this section and in accordance with subsection (c) of this section, the Secretary, on the

Secretary's own initiative, may make an adjustment or grant a refund without interest.

(e) (1) If a claim for an adjustment or refund is rejected, the Secretary shall mail a written notice of rejection to the employing unit.

(2) (i) Within 15 days after receiving a notice of rejection, the employing unit may petition the Appeals Board for a formal hearing.

(ii) The petition shall state the grounds on which the refund or adjustment is claimed.

(3) The Board of Appeals shall:

(i) grant a hearing requested under this subsection;

(ii) notify the employing unit of the time and place of the hearing;

(iii) after the hearing, pass an order that the Board of Appeals considers to be just and lawful; and

(iv) give a copy of the order to the employing unit.

(f) This title does not:

(1) authorize an adjustment or refund of money that was due under the law in effect at the time that the money was paid; or

(2) prohibit a refund required under § 8–640 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 99

(House Bill 349)

AN ACT concerning

Business Regulation – Cemeteries – Prohibited Acts and Penalties

FOR the purpose of altering a certain prohibition on establishing, operating, or allowing a cemetery to be operated in violation of certain provisions of law regarding the perpetual care of cemeteries; altering the penalties for violations of certain provisions of law relating to perpetual care trusts, preneed trusts, and the operation of a cemetery, crematory, or burial goods business; providing that corporate officers who are responsible for a violation of certain provisions of law relating to the perpetual care of cemeteries are guilty of a misdemeanor and are subject to certain penalties; providing that a person who willfully misappropriates or intentionally and fraudulently converts perpetual care trust funds or preneed trust funds in excess of a certain amount is guilty of a felony and subject to a certain penalty; repealing certain obsolete language and provisions of law relating to penalties for violations of certain provisions of law regarding the perpetual care of cemeteries; and generally relating to cemeteries.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 5–609, 5–712, and 5–904
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Business Regulation
Section 5–610
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

5–609.

[(a) A person**]** **EXCEPT AS PROVIDED IN § 5–602 OF THIS SUBTITLE, A SOLE PROPRIETOR REGISTERED CEMETERIAN, PERMIT HOLDER, OR ANY OTHER PERSON SUBJECT TO THE PERMIT OR REGISTRATION REQUIREMENTS OF THIS TITLE** may not establish **[**or**]**, operate **[**a public or private cemetery**]**, or allow a **[**public or private**]** cemetery to be operated in violation of this subtitle.

[(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(c) If a sole proprietor registered cemeterian, a permit holder, or any other person subject to the trust requirements of this subtitle violates this subtitle, that

person is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.]

5–610.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, A SOLE PROPRIETOR REGISTERED CEMETERIAN, PERMIT HOLDER, OR ANY OTHER PERSON SUBJECT TO THE PERMIT OR REGISTRATION REQUIREMENTS OF THIS TITLE WHO VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO:

(1) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING $5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH;

(2) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING ~~$15,000~~ $10,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND

(3) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT EXCEEDING ~~$25,000~~ $20,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF A CORPORATION VIOLATES THIS SUBTITLE, EACH OFFICER RESPONSIBLE FOR THE VIOLATION IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO:

(1) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING $5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH;

(2) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING ~~$15,000~~ $10,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND

(3) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT EXCEEDING ~~$25,000~~ $20,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

(C) A PERSON WHO WILLFULLY MISAPPROPRIATES OR INTENTIONALLY AND FRAUDULENTLY CONVERTS PERPETUAL CARE TRUST FUNDS IN EXCESS OF $100 TO THAT PERSON'S OWN USE IS GUILTY OF A FELONY AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING ~~$50,000~~ $25,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

5–712.

(a) A seller may not fail to deposit, as required by this subtitle, money received under or in connection with a preneed burial contract.

(b) (1) **[**A**] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, A** person who violates this section is guilty of a misdemeanor and, on conviction, is subject to**:**

(I) FOR A FIRST VIOLATION, a fine not exceeding **[**$5,000**] $10,000** or imprisonment not exceeding 1 year or both**;**

(II) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING $15,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND

(III) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT EXCEEDING ~~$25,000~~ $20,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

(2) **[**If**] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF** a corporation violates this section, each officer responsible for the violation is guilty of a misdemeanor and, on conviction, is subject to**:**

(I) FOR A FIRST VIOLATION, a fine not exceeding **[**$5,000**] $10,000** or imprisonment not exceeding 1 year or both**;**

(II) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING $15,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND

(III) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT EXCEEDING ~~$25,000~~ $20,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

(C) A PERSON WHO WILLFULLY MISAPPROPRIATES OR INTENTIONALLY AND FRAUDULENTLY CONVERTS PRENEED TRUST FUNDS IN EXCESS OF $100 TO THAT PERSON'S OWN USE IS GUILTY OF A FELONY AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING ~~$50,000~~ $25,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

5–904.

A person who violates this subtitle is guilty of a misdemeanor and**,** on conviction**,** is subject to**:**

(1) FOR A FIRST VIOLATION, a fine not exceeding **[**$3,000**] $5,000** or imprisonment not exceeding 1 year or both**;**

(2) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING $10,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND

(3) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT EXCEEDING $15,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 100

(House Bill 350)

AN ACT concerning

Business Regulation – Outdoor Musical Festival Promoter License – Repeal of Safety Permit Requirement

FOR the purpose of repealing the requirement that an applicant for a promoter license to act as a promoter of outdoor musical festivals obtain a certain safety permit from the Secretary of State Police; requiring a certain approval by a local law enforcement unit of an applicant for a promoter license to be based on certain criteria relating to safety and security; repealing the authority of the Department of State Police to charge an applicant for a promoter license a certain fee for certain costs; and generally relating to the requirements for a license to promote outdoor musical festivals.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 17–1404
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article – Business Regulation
Section 17–1406
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

17–1404.

(a) An applicant for a promoter license shall:

(1) pay to the clerk a license fee of $500; **AND**

(2) get a health permit from the health officer**[**; and

(3) get a safety permit from the Secretary of State Police**]**.

(b) An applicant for a health permit shall:

(1) post a bond in accordance with § 17–1405 of this subtitle;

(2) establish adequate health facilities and sanitation in accordance with any regulations adopted by the Department of Health and Mental Hygiene to govern outdoor musical festivals; and

(3) show that the applicant has obtained approval of the local law enforcement unit.

(c) (1) **[**An applicant for a safety permit shall show that the applicant has provided**] APPROVAL OF A LOCAL LAW ENFORCEMENT UNIT UNDER SUBSECTION (B)(3) OF THIS SECTION SHALL BE BASED ON THE APPLICANT'S ABILITY TO PROVIDE**:

(i) adequate security for the safety of spectators and their property;

(ii) adequate arrangements for the orderly flow of traffic to, at, and from the outdoor musical festival; and

(iii) adequate security for those persons who might reasonably be affected by the outdoor musical festival and for their property.

(2) Paragraph (1)(iii) of this subsection does not apply in St. Mary's County.

[17–1406.

Notwithstanding the license fee imposed under this subtitle, the Department of State Police may charge an applicant for a promoter license a fee of not more than $12 to cover the costs of securing records from a source other than the Department of State Police.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 101

(House Bill 351)

AN ACT concerning

State Athletic Commission – Amateur Mixed Martial Arts and Amateur Kick Boxing – Licensing and Regulation

FOR the purpose of authorizing the State Athletic Commission to license and regulate amateur mixed martial arts and amateur kick boxing; expanding the scope of drug testing for certain contestants; repealing certain mandatory sanctions for certain contestants who refuse to submit to certain tests or test positive for the presence of certain drugs; requiring certain contestants to submit to a certain blood <u>or urine</u> test under certain circumstances; defining certain terms; making certain technical changes; and generally relating to the licensing and regulation of amateur mixed martial arts and amateur kick boxing by the State Athletic Commission.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4–101, 4–301, 4–302, 4–303, 4–304.1, 4–305, 4–308, 4–310, 4–314, 4–315, 4–316, and 4–320
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

4–101.

(a) In this title the following words have the meanings indicated.

(b) "Boxing" includes sparring.

(c) "Commission" means the State Athletic Commission.

(d) (1) "Contest" means a boxing, kick boxing, or wrestling:

(i) competition;

(ii) exhibition;

(iii) match;

(iv) performance; or

(v) show.

(2) "Contest" includes a mixed martial arts:

(i) competition;

(ii) match;

(iii) performance; or

(iv) show.

(3) "Contest" does not include a mixed martial arts exhibition.

(E) "CONTESTANT" MEANS AN INDIVIDUAL WHO PARTICIPATES IN A BOXING, PROFESSIONAL KICK BOXING, AMATEUR KICK BOXING, PROFESSIONAL MIXED MARTIAL ARTS, OR AMATEUR MIXED MARTIAL ARTS CONTEST.

[(e)**] (F)** "Mixed martial arts" means a competition in which contestants use interdisciplinary forms of fighting, including various forms of martial arts, involving:

(1) striking with the hands, feet, knees, or elbows; and

(2) grappling by take–downs, throws, submissions, or choke holds.

[(f)**] (G)** "Mixed martial arts exhibition" means mixed martial arts where:

(1) contact to the body is permitted in only a restrained manner;

(2) contact to the head is not permitted; and

(3) no contact is permitted that may result, or is intended to result, in physical harm to an opponent.

4–301.

(a) In this subtitle, "license" means a license issued by the Commission.

(b) In this subtitle, "license" includes:

(1) a license to participate as a boxer in a contest;

(2) a license to participate as a **PROFESSIONAL** kick boxer in a contest;

(3) A LICENSE TO PARTICIPATE AS AN AMATEUR KICK BOXER IN A CONTEST;

[(3)**] (4)** a license to participate as a wrestler in a contest;

[(4)**] (5)** a license to participate as a **PROFESSIONAL** mixed martial arts contestant in a contest;

(6) A LICENSE TO PARTICIPATE AS AN AMATEUR MIXED MARTIAL ARTS CONTESTANT IN A CONTEST;

[(5)**] (7)** a license to act as a manager for a **[**boxer, kick boxer, or mixed martial arts**]** contestant;

[(6)**] (8)** a license to act as a referee in a contest;

[(7)**] (9)** a license to act as a judge in a **[**boxing, kick boxing, or mixed martial arts**]** contest;

[(8)**] (10)** a license to act as a second in a contest;

[(9)**] (11)** a license to act as a matchmaker of a **[**boxing, kick boxing, or mixed martial arts**]** contest; and

[(10)**] (12)** a license to act as a promoter of a contest.

4–302.

(a) Except as provided in subsection (b) of this section, this subtitle does not apply to:

(1) intercollegiate, interscholastic, or intramural boxing, kick boxing, or wrestling;

(2) amateur boxing**[**, kick boxing, or wrestling**]** conducted under the supervision of a nationally recognized amateur organization;

(3) **[**amateur mixed martial arts conducted under the supervision of an amateur kick boxing organization or mixed martial arts organization that:

(i) has been reviewed by the Commission on a basis that is neither arbitrary nor capricious;

(ii) has been approved by the Commission;

(iii) administers and enforces amateur mixed martial arts regulations adopted by the Commission; and

(iv) does not have a direct or indirect financial interest in:

1. a mixed martial arts contestant; or

2. the promotion of a mixed martial arts contest;

(4)**]** martial arts where:

(i) contact to the body is permitted in only a restrained manner;

(ii) contact to the head is not permitted; and

(iii) no contact is permitted that may result, or is intended to result, in physical harm to an opponent; or

[(5)**] (4)** a mixed martial arts exhibition.

(b) Each boxer shall wear protective headgear in each amateur boxing match or exhibition.

4–303.

(a) A person may not participate as a **[**boxer, kick boxer,**]** wrestler**[**,**]** or **[**mixed martial arts**]** contestant in a contest in the State unless the person has an appropriate license.

(b) A person may not act as a manager, referee, judge, second, matchmaker, or promoter in a contest in the State unless the person has an appropriate license.

4–304.1.

(a) Each applicant for a license to participate as a **[**boxer, kick boxer, or mixed martial arts**]** contestant in a contest shall present documentary evidence, satisfactory to the Commission, that:

(1) within the prior 30–day period, the applicant has been tested for the presence of:

(i) antibodies to the human immunodeficiency virus (HIV);

(ii) the antigen of virus hepatitis B; and

(iii) antibodies to virus hepatitis C; and

(2) the results of all tests are negative.

(b) Whenever directed by the Commission, an individual who is licensed to participate as a **[**boxer, kick boxer, or mixed martial arts**]** contestant in a contest shall present documentary evidence, satisfactory to the Commission, that:

(1) within 30 days prior to participating in a contest, the individual has been tested for the presence of:

(i) antibodies to the human immunodeficiency virus (HIV);

(ii) the antigen of virus hepatitis B; and

(iii) antibodies to virus hepatitis C; and

(2) the results of all tests are negative.

(c) A test for the presence of HIV conducted under the provisions of this section shall be conducted in accordance with the provisions of Title 4, Subtitle 3 and § 18–336 of the Health – General Article.

(d) (1) If the Commission denies a license, suspends or revokes a license, denies renewal of a license, or does not allow an individual to participate in a contest because of the failure of the individual to comply with this section, the Commission shall keep the information confidential and may not disclose the reason for its action.

(2) A person who violates paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 for the first offense and not exceeding $5,000 for each subsequent conviction.

4–305.

(a) An applicant for a license shall:

(1) submit to the Commission an application on the form that the Commission provides; and

(2) pay to the Commission an application fee of:

(i) $10 for a license to participate as a **[**boxer, kick boxer,**]** wrestler**[**,**]** or **[**mixed martial arts**]** contestant in a contest or to act as a second in a contest;

(ii) $15 for a license to act as a referee or judge in a contest;

(iii) $25 for a license to act as a manager of a **[**boxer, kick boxer, or mixed martial arts**]** contestant;

(iv) $25 for a license to act as a matchmaker of a contest; or

(v) $150 for a license to act as a promoter of a contest.

(b) The application shall contain the information that the Commission requires by regulation.

4–308.

(a) A boxer license authorizes the licensee to participate as a boxer in a contest.

(b) **(1)** A **PROFESSIONAL** kick boxer license authorizes the licensee to participate as a **PROFESSIONAL** kick boxer in a contest.

(2) AN AMATEUR KICK BOXER LICENSE AUTHORIZES THE LICENSEE TO PARTICIPATE AS AN AMATEUR KICK BOXER IN A CONTEST.

(c) A wrestler license authorizes the licensee to participate as a wrestler in a contest.

(d) **(1)** A **PROFESSIONAL** mixed martial arts contestant license authorizes the licensee to participate as a **PROFESSIONAL** mixed martial arts contestant in a contest.

(2) AN AMATEUR MIXED MARTIAL ARTS CONTESTANT LICENSE AUTHORIZES THE LICENSEE TO PARTICIPATE AS AN AMATEUR MIXED MARTIAL ARTS CONTESTANT IN A CONTEST.

(e) A manager license authorizes the licensee to act as a manager of a **[**boxer, kick boxer, or mixed martial arts**]** contestant.

(f) A referee license authorizes the licensee to act as a referee in a contest.

(g) A judge license authorizes the licensee to act as a judge in a **[**boxing, kick boxing, or mixed martial arts**]** contest.

(h) A second license authorizes the licensee to act as a second in a contest.

(i) A matchmaker license authorizes the licensee to act as a matchmaker of a **[**boxing, kick boxing, or mixed martial arts**]** contest.

(j) A promoter license authorizes the licensee to act as a promoter of a contest.

4–310.

(a) (1) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(ii) fraudulently or deceptively uses a license;

(iii) violates this title; or

(iv) violates a regulation adopted under this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Commission may impose a penalty of up to $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Commission shall consider:

1. the seriousness of the violation;

2. the good faith of the violator;

3. any previous violations;

4. the assets of the violator; and

5. the harmful effect of the violation on the general public and the sporting industry.

(b) In addition to the grounds in subsection (a) of this section, the Commission may deny a boxer, **AMATEUR KICK BOXER, PROFESSIONAL** kick boxer,

AMATEUR MIXED MARTIAL ARTS CONTESTANT, or **PROFESSIONAL** mixed martial arts contestant license to an applicant or suspend or revoke a boxer, **AMATEUR KICK BOXER, PROFESSIONAL** kick boxer, **AMATEUR MIXED MARTIAL ARTS CONTESTANT,** or **PROFESSIONAL** mixed martial arts contestant license if the Commission finds that the applicant or licensee is not fit, based on the neurological examination required under §§ 4–304 and 4–314 of this subtitle and the recommendation of the physician who made the examination.

(c) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission **[**shall**]** **MAY** suspend or revoke a boxer, **AMATEUR KICK BOXER, PROFESSIONAL** kick boxer, **AMATEUR MIXED MARTIAL ARTS CONTESTANT,** or **PROFESSIONAL** mixed martial arts contestant license and **MAY ORDER** the boxer, **AMATEUR KICK BOXER, PROFESSIONAL** kick boxer, **AMATEUR MIXED MARTIAL ARTS CONTESTANT,** or **PROFESSIONAL** mixed martial arts contestant **[**shall**]** **TO** forfeit the purse or other compensation from the contest if the **[**boxer, kick boxer, or mixed martial arts**]** contestant:

(1) refuses to submit to **[**the urine**]** **A DRUG** test required under § 4–315(b) of this subtitle; or

(2) submits a urine **OR BLOOD** sample that tests positive for the presence of a controlled dangerous substance defined in § 5–101 of the Criminal Law Article or other substance that the Commission prohibits by regulation**, INCLUDING HUMAN GROWTH HORMONES, STEROIDS, OR OTHER PERFORMANCE ENHANCING DRUGS**.

(d) (1) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission shall deny a promoter license to an applicant or revoke a promoter license if the applicant or licensee:

(i) fails to pay the boxing and wrestling tax required under Title 6 or Title 13 of the Tax – General Article; or

(ii) holds or participates in a fake boxing, wrestling, or mixed martial arts contest.

(2) If a person fails to pay the boxing and wrestling tax, the Commission shall:

(i) impose a penalty not exceeding $5,000; and

(ii) act to enforce the bond of the promoter.

4–314.

(a) The Commission shall require an individual to be examined by a licensed physician who is chosen by the Commission and who specializes in neurology or neurosurgery before the individual may participate as a **[**boxer, kick boxer, or mixed martial arts**]** contestant in a contest in the State if:

(1) the individual has participated as a contestant in more than 12 **[**boxing, kick boxing, or mixed martial arts**]** contests in or out of the State;

(2) a ringside physician recommends the examination; or

(3) in 2 successive **[**boxing, kick boxing, or mixed martial arts**]** contests the individual:

(i) receives a technical knockout as a result of a neurological injury; or

(ii) is knocked out.

(b) The Commission shall pay the cost of the neurological examination required under this section from the license fees collected under this subtitle.

(c) On the basis of the neurological examination and the recommendation of the physician who conducts the examination, the Commission may find that the individual is not fit and may prohibit the individual from participating in a **[**boxing, kick boxing, or mixed martial arts**]** contest in the State.

4–315.

(a) A **[**boxer, kick boxer, or mixed martial arts**]** contestant shall be allowed to enter the ring only if:

(1) a physician approved by the Commission declares the **[**boxer, kick boxer, or mixed martial arts**]** contestant to be physically fit; and

(2) the **[**boxer, kick boxer, or mixed martial arts**]** contestant has complied with § 4–304.1 of this subtitle.

(b) **(1)** Each **[**boxer, kick boxer, or mixed martial arts**]** contestant in a contest shall submit to**:**

(I) a chemical test of the urine **OR BLOOD** of the **[**boxer, kick boxer, or mixed martial arts**]** contestant to detect the presence of a controlled dangerous substance defined in § 5–101 of the Criminal Law Article or other substance that the Commission prohibits by regulation**; AND**

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A TEST OF THE BLOOD OR URINE OF THE CONTESTANT TO DETECT THE PRESENCE OF PERFORMANCE ENHANCING DRUGS, INCLUDING:

1. HUMAN GROWTH HORMONES; AND

2. ANABOLIC STEROIDS~~; OR~~

~~3. ANY OTHER SUBSTANCE THE COMMISSION PROHIBITS BY REGULATION~~.

(2) A CONTESTANT SHALL BE REQUIRED TO SUBMIT TO A BLOOD OR URINE TEST UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION IF:

(I) THERE IS REASONABLE CAUSE TO BELIEVE THE CONTESTANT HAS USED A SUBSTANCE PROHIBITED BY REGULATION;

(II) THE CONTESTANT WAS RANDOMLY SELECTED BY LOTTERY; OR

(III) THE CONTESTANT HAS A DOCUMENTED OR OTHERWISE VERIFIED HISTORY OF DRUG USE WITHIN THE 5 YEARS IMMEDIATELY PRECEDING THE DATE OF THE CONTEST.

(c) The Commission shall set the length in rounds of each **[**boxing, kick boxing, and mixed martial arts**]** contest.

(d) (1) The Commission shall adopt regulations to ensure the safety of individuals who participate in amateur or professional mixed martial arts contests.

(2) In developing the regulations, the Commission shall consider:

(i) appropriate limits on acceptable maneuvers;

(ii) time limits for contest rounds; and

(iii) rules for termination of a contest.

4–316.

A **[**boxer, kick boxer, wrestler, or mixed martial arts**]** **WRESTLER OR** contestant who participates in a fake contest:

(1) for the first offense, shall be prohibited for a period of 6 months beginning immediately after the offense from participating in a contest that is held by a person licensed to act as a promoter of a contest; and

(2) for the second offense, shall be disqualified from attendance at or participation in a contest that is held by a person licensed to act as a promoter of a contest.

4–320.

A promoter may not allow a person who does not have an appropriate license to participate as a **[**boxer, kick boxer, wrestler, or mixed martial arts**]** **WRESTLER OR** contestant in a contest or to act as a manager, referee, judge, second, or matchmaker in a contest.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 102

(House Bill 353)

AN ACT concerning

Professional Engineers and Professional Land Surveyors – Licensing – Examinations

FOR the purpose of altering certain notice, review, and reexamination procedures for applicants who fail certain examinations relating to the licensing of professional engineers and professional land surveyors; repealing a requirement that the State Board for Professional Engineers adopt certain regulations relating to confirmation of test scores; authorizing the State Board for Professional Engineers and the State Board for Professional Land Surveyors to adopt certain regulations to set conditions for retaking examinations; altering certain experience and examination requirements for applicants seeking licensure as professional land surveyors; altering certain requirements relating to the manner of administration and substance of certain examinations required for the licensing of professional land surveyors; defining certain terms; making stylistic and conforming changes; and generally relating to the licensing of professional engineers and professional land surveyors.

BY renumbering
Article – Business Occupations and Professions

Section 14–101(c) through (h) and 15–101(c) through (n), respectively
to be Section 14–101(d) through (i) and 15–101(d) through (o), respectively
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 14–101(a) and (b) and 15–101(a) and (b)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 14–101(c) and 15–101(c)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 14–308(a) through (c), 14–309, 15–305, 15–307, 15–308, and 15–309
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 14–101(c) through (h) and 15–101(c) through (n), respectively, of Article – Business Occupations and Professions of the Annotated Code of Maryland be renumbered to be Section(s) 14–101(d) through (i) and 15–101(d) through (o), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Business Occupations and Professions

14–101.

(a) In this title the following words have the meanings indicated.

(b) "Board" means the State Board for Professional Engineers.

(C) "COUNCIL" MEANS THE NATIONAL COUNCIL OF EXAMINERS FOR ENGINEERING AND SURVEYING.

14–308.

(a) **[**(1)**]** If an applicant fails an examination given under this subtitle, the Board **OR ITS DESIGNEE** shall **[**mail**]** **PROVIDE** notice of the failure to the applicant.

[(2) The notice required under this subsection shall be mailed to the address that the applicant last gave to the Board.**]**

(b) (1) Subject to the provisions of this subsection, an applicant who fails an examination may review the applicant's **[**answers and model answers to the**]** examination **IN ACCORDANCE WITH THE COUNCIL'S REVIEW POLICIES UNLESS THE POLICIES HAVE BEEN OTHERWISE AMENDED BY THE BOARD**.

(2) To conduct a review under this subsection, an applicant shall submit a written request to the Board within 60 days after the date **[**on which the Board mails notice of the applicant's failure**]** **THE APPLICANT IS NOTIFIED OF THE APPLICANT'S FAILURE OF THE EXAMINATION**.

(3) An applicant who does not request review in accordance with paragraph (2) of this subsection waives the right to review under this subsection.

(c) **[**(1)**]** The Board shall confirm the test score of any applicant who fails an examination given under this subtitle if the applicant:

[(i)**]** **(1)** submits a written request to the Board in accordance with its regulations; and

[(ii)**]** **(2)** pays to the Board the fee set by the Board.

[(2) The Board shall adopt regulations that set procedures for confirmation of test scores under this subsection.**]**

14–309.

(a) Subject to this section, if an applicant fails an examination given under this subtitle, the applicant may retake the examination **IN ACCORDANCE WITH THE COUNCIL'S REEXAMINATION POLICIES UNLESS THE POLICIES HAVE BEEN OTHERWISE AMENDED BY THE BOARD**.

(b) **[**Except as provided in subsection (c) of this section, an**]** **AN** applicant for reexamination shall:

(1) submit to the Board a request for reexamination on the form that the Board provides; and

(2) pay to the Board or the Board's designee the reexamination fee set by the Board in an amount not to exceed the cost of the examination.

[(c) An applicant who fails 2 reexaminations given under this section may take the examination again only on a new application for a license that is submitted to the Board at least 2 years after the applicant last failed a reexamination.**]**

(C) THE BOARD MAY ADOPT REGULATIONS TO SET CONDITIONS FOR RETAKING EXAMINATIONS, INCLUDING REQUIREMENTS THAT AN APPLICANT:

(1) WAIT A REASONABLE PERIOD AFTER FAILING AN EXAMINATION; AND

(2) PROVIDE EVIDENCE ACCEPTABLE TO THE BOARD OF UPDATED EXPERIENCE OR EDUCATION.

(d) A reexamination fee paid under subsection (b)(2) of this section is not refundable.

15–101.

(a) In this title the following words have the meanings indicated.

(b) "Board" means the State Board for Professional Land Surveyors.

(C) "COUNCIL" MEANS THE NATIONAL COUNCIL OF EXAMINERS FOR ENGINEERING AND SURVEYING.

15–305.

(a) **[**(1)**]** In addition to the other qualifications for a license to practice land surveying, an applicant shall qualify under this section by meeting the educational, experience, and examination requirements set forth in subsection (b), (c), (d), or (e) of this section.

[(2) An applicant shall complete the requirements of subsection (b), (c), (d), or (e) of this section in the order the requirements are listed.**]**

(b) An applicant qualifies under this section if the applicant:

(1) has been graduated from a college or university **[**on**]** **UPON** completion of at least a 4–year curriculum in land surveying that the Board approves;

(2) has passed **[**a written**]** **THE** examination in the fundamentals of **[**land**]** surveying;

(3) has **A SPECIFIC RECORD OF** at least 2 years of **PROGRESSIVE OFFICE AND FIELD** experience in land surveying **OF A GRADE AND CHARACTER** that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying; and

(4) has passed **[**a written examination in the principles and practice of land surveying**] THE FOLLOWING EXAMINATIONS:**

(I) THE PRINCIPLES AND PRACTICE OF SURVEYING; AND

(II) UNLESS EXCUSED BY THE BOARD, STATE–SPECIFIC EXAMINATION MODULES SPECIFIED AND APPROVED BY THE BOARD THAT PERTAIN TO THE PRACTICE OF SURVEYING IN THE STATE.

(c) An applicant qualifies under this section if the applicant:

(1) has been graduated upon completion of at least a 4–year curriculum from a college or university that is accredited by, or is a constituent unit of an institution accredited by, the Middle States Association of Colleges and Schools or the equivalent regional accrediting association of other regional areas;

(2) has passed **[**a written**] THE** examination in the fundamentals of **[**land**]** surveying;

(3) has **A SPECIFIC RECORD OF** at least 4 years of **PROGRESSIVE OFFICE AND FIELD** experience in land surveying **OF A GRADE AND CHARACTER** that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying; and

(4) has passed **[**a written examination in the principles and practice of land surveying**] THE FOLLOWING EXAMINATIONS:**

(I) THE PRINCIPLES AND PRACTICE OF SURVEYING; AND

(II) UNLESS EXCUSED BY THE BOARD, STATE–SPECIFIC EXAMINATION MODULES SPECIFIED AND APPROVED BY THE BOARD THAT PERTAIN TO THE PRACTICE OF SURVEYING IN THE STATE.

(d) (1) An applicant qualifies under this section if the applicant:

(i) is a high school graduate or the equivalent;

(ii) subject to paragraph (2) of this subsection, has **A SPECIFIC RECORD OF** at least 12 years of **PROGRESSIVE OFFICE AND FIELD** experience in land surveying **OF A GRADE AND CHARACTER** that is satisfactory to the Board and

that indicates to the Board that the applicant may be competent to practice land surveying; and

(iii) has passed **[**a written examination in the principles and practices of land surveying**]** **THE FOLLOWING EXAMINATIONS:**

1. THE PRINCIPLES AND PRACTICE OF SURVEYING; AND

2. UNLESS EXCUSED BY THE BOARD, STATE–SPECIFIC EXAMINATION MODULES SPECIFIED AND APPROVED BY THE BOARD THAT PERTAIN TO THE PRACTICE OF SURVEYING IN THE STATE.

(2) For each 30 semester hours or its equivalent that an applicant completes in land surveying courses that the Board approves, the Board may allow a 1–year credit towards the experience requirements of paragraph (1)(ii) of this subsection for a maximum of 3 years.

(e) (1) An applicant qualifies under this section if the applicant:

(i) is a high school graduate or the equivalent;

(ii) subject to paragraph (2) of this subsection, has **A SPECIFIC RECORD OF** at least **[**4**] 8** years of **PROGRESSIVE OFFICE AND FIELD** experience in land surveying **OF A GRADE AND CHARACTER** that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying;

(iii) has passed **[**a written**] THE** examination in the fundamentals of **[**land**]** surveying; **AND**

(iv) **[**has completed at least 4 years of experience in land surveying that is satisfactory to the Board and that indicates to the Board that the applicant may be competent to practice land surveying; and

(v)**]** has passed **[**a written examination in the principles and practice of land surveying**]** **THE FOLLOWING EXAMINATIONS:**

1. THE PRINCIPLES AND PRACTICE OF SURVEYING; AND

2. UNLESS EXCUSED BY THE BOARD, STATE–SPECIFIC EXAMINATION MODULES SPECIFIED AND APPROVED BY THE BOARD THAT PERTAIN TO THE PRACTICE OF SURVEYING IN THE STATE.

(2) For each 30 semester hours or its equivalent that an applicant completes in land surveying courses that the Board approves, the Board may allow a 1–year credit towards the experience requirements of paragraph (1)(ii) of this subsection for a maximum of 3 years.

15–307.

(a) Except as otherwise provided in § 15–307.1 of this subtitle, an applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board periodically shall give the examinations required under this subtitle to qualified applicants at the times and places that the Board determines.

(c) The Board shall give each qualified applicant notice of the time and place of examination.

(d) As provided for applicants for a license to practice land surveying under § 15–305 of this subtitle, the Board shall give the following **[**2**]** separate examinations:

(1) **[**a written examination in**]** the fundamentals of **[**land**]** surveying; **[**and**]**

(2) **[**a written examination in**]** the principles and practice of **[**land**]** surveying**; AND**

(3) UNLESS EXCUSED BY THE BOARD, STATE–SPECIFIC EXAMINATION MODULES SPECIFIED AND APPROVED BY THE BOARD THAT PERTAIN TO THE PRACTICE OF SURVEYING IN THE STATE.

(e) (1) The Board shall determine the subjects, scope, and form of and method of grading and passing scores for the examinations given under this subtitle.

(2) The Board shall structure the examinations to test the ability of an applicant to design, plan, and direct land surveying in order to ensure the safety of life, health, and property.

15–308.

(a) **[**(1)**]** If an applicant fails an examination given under this subtitle, the Board **OR ITS DESIGNEE** shall **[**mail**]** **PROVIDE** notice of the failure to the applicant.

[(2) The notice required under this subsection shall be mailed to the address that the applicant last gave to the Board.**]**

(b) (1) Subject to this subsection, an applicant who fails an examination may review the applicant's **[**answers and model answers to the**]** examination **IN ACCORDANCE WITH THE COUNCIL'S REVIEW POLICIES UNLESS THE POLICIES HAVE BEEN OTHERWISE AMENDED BY THE BOARD**.

(2) To conduct a review under this subsection, an applicant shall submit a written request to the Board within 60 days after the date **[**on which the Board mails notice of the applicant's failure**]** **THE APPLICANT IS NOTIFIED OF THE APPLICANT'S FAILURE OF THE EXAMINATION**.

(3) An applicant who does not request review in accordance with paragraph (2) of this subsection waives the right to review under this subsection.

(c) The Board shall confirm the test score of any applicant who fails an examination given under this subtitle if the applicant submits a written request to the Board.

15–309.

(a) Subject to this section, if an applicant fails an examination given under this subtitle, the applicant may retake the examination **IN ACCORDANCE WITH THE COUNCIL'S REEXAMINATION POLICIES UNLESS THE POLICIES HAVE BEEN OTHERWISE AMENDED BY THE BOARD**.

(b) **[**Except as provided in subsection (c) of this section, an**]** **AN** applicant for reexamination shall:

(1) submit to the Board a request for reexamination on the form that the Board provides; and

(2) pay to the Board or the Board's designee a reexamination fee set by the Board in § 15–306(a)(2) of this subtitle.

[(c) An applicant, for a professional land surveyor license, who fails 2 reexaminations given under this section may take the examination again only if the applicant submits to the Board:

(1) a request for reexamination on the form provided by the Board; and

(2) the appropriate documentation indicating the applicant's updated work experience required by the Board.**]**

(C) THE BOARD MAY ADOPT REGULATIONS TO SET CONDITIONS FOR RETAKING EXAMINATIONS, INCLUDING REQUIREMENTS THAT AN APPLICANT:

(1) WAIT A REASONABLE PERIOD AFTER FAILING AN EXAMINATION; AND

(2) PROVIDE EVIDENCE ACCEPTABLE TO THE BOARD OF UPDATED EXPERIENCE OR EDUCATION.

(d) (1) A reexamination fee paid under subsection (b)(2) of this section is not refundable.

(2) If an applicant does not take the reexamination that the applicant asked to take, the Board shall credit that fee toward any reexamination that the applicant later takes.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 103

(House Bill 354)

AN ACT concerning

Unemployment Insurance – Recovery of Benefits – Monetary Penalty for Fraud

FOR the purpose of authorizing the Secretary of Labor, Licensing, and Regulation to recover from a claimant a certain monetary penalty under certain circumstances; altering the amount of interest the Secretary may recover under certain circumstances; requiring the Secretary to notify the claimant of the amount of any monetary penalty assessed under a certain provision of law and the reason for the assessment; excluding certain monetary penalties from the requirement that certain money be paid into a certain fund; requiring a person who violates a certain provision of law to pay a certain monetary penalty; altering the amount of interest a person is required to pay for a violation of a certain provision of law; excluding certain monetary penalties from the amount that can be recovered by the Secretary through a certain method; providing for the application of this Act; making a stylistic change; and generally relating to the recovery of unemployment insurance benefits.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–404, 8–809, and 8–1305

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

8–404.

(a) (1) The State Treasurer is custodian of the Unemployment Insurance Fund.

(2) The State Treasurer shall manage the Unemployment Insurance Fund in accordance with regulations that the Secretary adopts.

(b) (1) In the Unemployment Insurance Fund, the State Treasurer shall maintain as separate accounts:

(i) a clearing account;

(ii) an Unemployment Trust Fund Account; and

(iii) a benefit account.

(2) Under the direction of the Secretary, the Treasurer shall establish the benefit and clearing accounts in any financial institution in which the General Fund of the State may be deposited.

(3) The Unemployment Trust Fund Account shall be the account of the State in the Federal Unemployment Trust Fund that is established and maintained in accordance with § 904 of the Social Security Act notwithstanding any State law to the contrary that relates to administration, deposit, disbursement, or release of money in the custody of the State.

(c) (1) On receipt of any money payable to the Unemployment Insurance Fund, the Secretary shall ensure immediate deposit of the money in the clearing account as required by the State Treasurer.

(2) **[**All**]** **EXCEPT FOR MONETARY PENALTIES ASSESSED UNDER § 8–809(B)(2) OR § 8–1305(B)(1) OF THIS TITLE, ALL** money deposited in the clearing account for the payment of fines, interest, or penalties shall be paid to the Special Administrative Expense Fund.

(3) Subject to the direction of the Secretary, the State Treasurer may pay refunds under Subtitle 6, Part V of this title from the clearing account.

(d) (1) Immediately after payments that are made under subsection (c)(2) and (3) of this section have cleared, the State Treasurer shall deposit all money that remains in the clearing account with the Secretary of the Treasury of the United States to the credit of the account of the State in the Unemployment Trust Fund that is established and maintained under § 904 of the Social Security Act.

(2) Money that is requisitioned from the account of the State in the Unemployment Trust Fund shall be placed in the benefit account only for use in accordance with paragraph (3) of this subsection.

(3) Subject to § 8–405 of this subtitle and in accordance with regulations that the Secretary adopts, money in the benefit account:

(i) may be used to pay refunds under Subtitle 6, Part V of this title;

(ii) shall be used to pay benefits; and

(iii) may be used to pay administrative expenses incurred to carry out this title.

(e) The Unemployment Insurance Fund may not be used to pay a deposit insurance premium in a financial institution in which the benefit and clearing accounts are deposited.

8–809.

(a) The Secretary may recover benefits paid to a claimant if the Secretary finds that the claimant was not entitled to the benefits because:

(1) the claimant was not unemployed;

(2) the claimant received or retroactively was awarded wages; or

(3) due to a redetermination of an original claim by the Secretary, the claimant is disqualified or otherwise ineligible for benefits.

(b) If the Secretary finds that a claimant knowingly made a false statement or representation or knowingly failed to disclose a material fact to obtain or increase a benefit or other payment under this title, in addition to disqualification of the claimant, the Secretary may recover from the claimant:

(1) all benefits paid to the claimant for each week for which the false statement or representation was made or for which the claimant failed to disclose a material fact; **[**and**]**

(2) A MONETARY PENALTY OF 15% OF ALL BENEFITS PAID TO THE CLAIMANT FOR EACH WEEK FOR WHICH THE FALSE STATEMENT OR REPRESENTATION WAS MADE OR FOR WHICH THE CLAIMANT FAILED TO DISCLOSE A MATERIAL FACT; AND

[(2)**] (3)** interest of 1.5% per month on the amount **OF ALL BENEFITS PAID TO THE CLAIMANT FOR EACH WEEK FOR WHICH THE FALSE STATEMENT OR REPRESENTATION WAS MADE OR FOR WHICH THE CLAIMANT FAILED TO DISCLOSE A MATERIAL FACT PLUS THE AMOUNT OF THE MONETARY PENALTY** accruing from the date that the claimant is notified by the Secretary that the claimant was not entitled to benefits received.

(c) If the Secretary decides to recover benefits from a claimant under subsection (a) or (b) of this section, the Secretary shall notify the claimant of:

(1) the amount to be recovered;

(2) the weeks for which benefits were paid; **[**and**]**

(3) THE AMOUNT OF ANY MONETARY PENALTY ASSESSED UNDER SUBSECTION (B)(2) OF THIS SECTION AND THE REASON FOR THE ASSESSMENT OF THE MONETARY PENALTY; AND

[(3)**] (4)** the provision of this title under which the Secretary determined that the claimant was ineligible for benefits.

(d) The Secretary may recover an amount under subsection (a) or (b) of this section:

(1) by deduction from benefits payable to the claimant in the future, excluding **THE MONETARY PENALTY ASSESSED UNDER SUBSECTION (B)(2) OF THIS SECTION AND** interest due **[**pursuant to**] UNDER** subsection **[**(b)(2)**] (B)(3)** of this section; or

(2) in the manner provided in § 8–630 of this title for the collection of past due contributions.

(e) (1) The Secretary may reconsider a decision to recover benefits under subsection (a) of this section within 1 year after the date that the decision was made.

(2) The Secretary may not make a determination to recover benefits under subsection (a) or (b) of this section later than 3 years after the date that the benefits were paid to the claimant.

(3) If an amount has not been recovered within 5 years after the date of the decision to recover the amount, the Secretary may consider the amount uncollectible.

(f) Notwithstanding any other provision of this section, the Secretary may recover, under a governmental offset agreement, an overpayment of benefits paid to any claimant under:

(1) the unemployment insurance law of another state; or

(2) a federal unemployment insurance benefit program.

8–1305.

(a) Unless another penalty is provided by statute, a person who willfully violates a provision of this title or a regulation adopted under this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 90 days or both.

(b) In addition to the penalty under subsection (a) of this section, a person who violates § 8–1301 of this subtitle:

(1) shall make full restitution of the benefit unlawfully received **AND PAY A MONETARY PENALTY OF 15% OF THE BENEFIT UNLAWFULLY RECEIVED**, including interest at a rate of 1.5% a month **ON THE TOTAL AMOUNT OF RESTITUTION PLUS THE MONETARY PENALTY** from the date the Secretary notifies the person of the amount to be recovered; and

(2) from 1 year from the date on which a determination is made that the individual filed a claim involving a false statement, false representation, or failure to disclose a material fact, the individual is disqualified from receiving benefits.

(c) (1) An employing unit or officer or agent of an employing unit who violates § 8–1303 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(2) A person who violates § 8–5A–08(b) or (d) of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(3) A person who violates § 8–1304 of this subtitle is guilty of a misdemeanor for each day the violation continues and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(4) An employee of the Secretary or Board of Appeals who violates § 8–625 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to benefit determinations establishing overpayments 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 104

(House Bill 355)

AN ACT concerning

State Board of Stationary Engineers – Qualifications for Stationary Engineer's Examination – Grade 1 and Grade 2

FOR the purpose of correcting the qualifications for the Grade 1 and Grade 2 stationary engineer's examinations to reference a licensed master restricted heating, ventilation, air–conditioning, or refrigeration contractor; and generally relating to qualifications for stationary engineer's examinations.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6.5–303(c)
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 Occupation and Professions

6.5–303.

(c) (1) An applicant for the Grade 1 stationary engineer's examination qualifies under this section if the applicant possesses at least one of the following qualifications:

(i) 5 years of documented experience as an active Grade 2 stationary engineer under the direction and control of a Grade 1 stationary engineer, toward which an applicant may receive:

1. 1 year of credit for 6 credit hours of classes or continuing education units in boiler safety or operations; and

2. 1 year of credit for holding a current active license as a:

A. master plumber;

B. master heating, ventilation, air–conditioning, and refrigeration contractor; or

C. master restricted heating, ventilation, **[**and**]** air–conditioning**, OR REFRIGERATION** contractor;

(ii) a 4–year degree in mechanical engineering from an accredited university or college;

(iii) licensure as a professional engineer including:

1. 1 year of documented experience as a professional engineer; and

2. 1 year of documented experience as a Grade 2 stationary engineer under the direction and control of a Grade 1 stationary engineer; or

(iv) a valid marine engineer's certificate or a chief petty officer's certificate from the United States Navy with documentation of steam boiler engineer training.

(2) An applicant for a Grade 2 stationary engineer's examination qualifies under this section if the applicant possesses at least one of the following qualifications:

(i) 36 months of documented experience as an active Grade 3 engineer under the direction and control of a licensed Grade 2 or Grade 1 stationary engineer, that may include:

1. 1 year of credit for 6 credit hours of classes or continuing education units in boiler safety or operations; and

2. 1 year of credit for holding a current active license as a:

A. master plumber;

B. master heating, ventilation, air–conditioning, and refrigeration contractor; or

C. master restricted heating, ventilation, **[**and**]** air–conditioning**, OR REFRIGERATION** contractor;

(ii) a 4–year degree in mechanical engineering from an accredited university or college;

(iii) licensure as a professional engineer and 6 months of documented experience as a Grade 3, Grade 4, or Grade 5 stationary engineer; or

(iv) a valid marine engineer's certificate or chief petty officer's certificate from the United States Navy.

(3) An applicant for a Grade 3 stationary engineer's examination qualifies under this section if the applicant possesses at least one of the following qualifications:

(i) 2 years of documented experience as an active Grade 4 or Grade 5 stationary engineer;

(ii) 1 year of documented experience as an active Grade 4 or Grade 5 engineer and 6 credit hours or continuing education units of classes in boiler operations or safety; or

(iii) a valid marine engineer's certificate or chief petty officer's certificate from the United States Navy.

(4) An applicant for a Grade 4 stationary engineer's examination qualifies under this section if the applicant possesses at least one of the following qualifications:

(i) 6 months of documented experience as an active Grade 5 stationary engineer; or

(ii) 3 credit hours or continuing education units of classes in boiler operations or safety.

(5) An applicant for a Grade 5 stationary engineer's examination qualifies under this section if the applicant possesses a high school diploma or graduate equivalence diploma.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 105

(House Bill 356)

AN ACT concerning

Military Personnel and Veteran–Owned Small Business No–Interest Loan Program

FOR the purpose of altering the name of the Military Personnel and Service–Disabled Veterans No–Interest Loan Program to be the Military Personnel and Veteran–Owned Small Business No–Interest Loan Program; expanding the no–interest loan program to include all veteran–owned businesses; and generally relating to the Military Personnel and Veteran–Owned Small Business No–Interest Loan Program.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 5–1001 through 5–1003 to be under the amended subtitle "Subtitle 10. Military Personnel and Veteran–Owned Small Business No–Interest Loan Program"
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

Subtitle 10. Military Personnel and **[**Service–Disabled Veterans**]** **VETERAN–OWNED SMALL BUSINESS** No–Interest Loan Program.

5–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Service–disabled veteran" means a veteran with a disability that is service–connected, as defined in 38 U.S.C. § 101(16).

(c) (1) "Small business employer" means an employer who employed an average of 50 or fewer employees on business days during the calendar year preceding the determination of eligibility for a loan under this subtitle.

(2) For purposes of paragraph (1) of this subsection, all persons treated as a single employer under § 414(b), (c), (m), or (o) of the Internal Revenue Code shall be treated as a single employer under this subtitle.

(D) "VETERAN–OWNED SMALL BUSINESS" MEANS A SMALL BUSINESS THAT IS AT LEAST 51% OWNED BY A VETERAN AS DEFINED IN 38 U.S.C. § 101(2).

5–1002.

Subject to the availability of funds, the Department, in consultation with the Department of Veterans Affairs, shall establish a program to provide no–interest loans under this subtitle to:

(1) small business employers of military reservists and National Guard personnel who are called to active duty;

(2) businesses owned by military reservists and National Guard personnel who are called to active duty;

(3) **[**service–disabled veterans;

(4) businesses owned by service–disabled veterans**]** **VETERAN–OWNED SMALL BUSINESSES**; and

[(5)**]** **(4)** businesses employing a service–disabled veteran.

5–1003.

Loans shall be made under this subtitle for the purposes of:

(1) providing financial support to:

(i) a business owned by a military reservist or National Guard member who is called to active duty; or

(ii) a small business employer of a military reservist or National Guard member who is called to active duty;

(2) making the home, motor vehicle, or place of employment of a **[**service–disabled**]** veteran accessible to individuals with disabilities, including purchasing equipment necessary to enable a business to employ a service–disabled

veteran **OR TO ENABLE A SERVICE–DISABLED VETERAN TO OPERATE A BUSINESS**; and

(3) defraying other necessary expenses, as determined by the Department of Veterans Affairs, incurred by:

(i) a business employing a service–disabled veteran **[**as a result of the veteran's disability**]**; **OR**

(ii) **[**a service–disabled veteran; or

(iii) a business owned by a service–disabled veteran**]** **A VETERAN–OWNED SMALL BUSINESS**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 106

(House Bill 360)

AN ACT concerning

Health Insurance – Repeal of Obsolete Provisions of Law

FOR the purpose of repealing certain provisions of law that authorize health maintenance organizations to offer certain benefit packages that provide certain limited benefits; repealing certain provisions of law that authorize certain group health insurance policies to provide for the continuation of all or part of certain benefit provisions after the death of a certain individual; repealing certain provisions of law that entitle certain insured individuals, whose coverage under certain group insurance policies is terminated for a certain reason, to certain individual insurance policies; repealing certain provisions of law that require certain succeeding insurers to provide to an employer certain information relating to preexisting conditions, exclusions, or similar policy provisions and to identify certain individuals under certain circumstances; repealing certain provisions of law that prohibit certain individual, group, or blanket health insurance policies from being denied by an insurer or nonprofit health service plan, or, on renewal, from imposing a waiting period or certain exclusion, solely because the insured has had a breast implant; repealing certain provisions of law relating to preexisting condition protections for certain employer group plans; repealing certain provisions of law requiring nonprofit health service

plans to offer certain catastrophic health insurance policies; providing for a delayed effective date; and generally relating to health insurance and the repeal of obsolete provisions of law.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–703
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing
Article – Insurance
Section 15–410, 15–412, 15–415, 15–504, 15–507, and 15–1101
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 – Health – General

19–703.

(a) This subtitle does not:

(1) Authorize any person to engage directly or indirectly in the practice of any health occupation except as otherwise authorized by law;

(2) Authorize any person to regulate, interfere, or intervene in the relationship between any provider of health care services and the patients of the provider; or

(3) Prohibit any health maintenance organization from meeting the requirements of any federal law that authorizes the health maintenance organization to:

(i) Receive federal financial assistance; or

(ii) Enroll beneficiaries assisted by federal funds.

(b) A health maintenance organization or a part of it that is also a community health center organized under the federal Public Health Service Act and receives federal funds under 42 U.S.C. § 254c is not required to provide hospitalization for individuals for whom services are provided by those funds.

(c) Health maintenance organizations shall offer as an option to all of their members or subscribers benefits for hospice services provided by a hospice care program, as defined in § 19–901(c) of this title.

(d) Health maintenance organizations shall provide continuation coverage required under §§ 15–407 through 15–409 of the Insurance Article.

(e) **[**(1) Notwithstanding any other provision of this subtitle, a health maintenance organization may offer a benefit package that provides at a minimum benefits required by former Article 48A, § 490–O for a limited benefits policy.

(2) A benefit package offered under paragraph (1) of this subsection shall:

(i) Be subject to the approval of the Insurance Commissioner; and

(ii) Satisfy the requirements of former Article 48A, § 490–O.

(f)**]** Notwithstanding any other provision of this subtitle, a health maintenance organization may provide a limited set of health benefits if the limited set of health benefits is for subscribers or members who are enrolled in a county program to provide health care services for low–income individuals.

[(g)**] (F)** (1) In addition to the requirements of § 19–706(i) of this subtitle and § 15–10B–09 of the Insurance Article, whenever a mother is required to remain hospitalized after childbirth for medical reasons and the mother requests that the newborn remain in the hospital, a health maintenance organization shall provide as part of its hospitalization services provided to members and subscribers payment for the cost of additional hospitalization for the newborn for up to 4 days.

(2) The attending physician or certified nurse midwife of the mother, or the designee of the attending physician or certified nurse midwife, shall provide notice to the mother of the provisions of paragraph (1) of this subsection.

Article – Insurance

[15–410.

A group health insurance policy under which an insurer pays benefits for expenses incurred for hospital, nursing, medical, or surgical services for family members or dependents of an individual in the insured group may provide for the continuation of all or part of the benefit provisions after the death of the individual in the insured group.**]**

[15–412.

(a) In this section, "insured individual" includes:

(1) an employee or member who is covered under a group policy; and

(2) an eligible dependent of an employee or member who is covered under a group policy.

(b) (1) This section applies to:

(i) each group insurance policy that insures employees or members for hospital, surgical, or major medical insurance on an expense–incurred or service basis, other than a policy that provides coverage only for specific diseases or for accidental injuries; and

(ii) each group insurance policy that is delivered or issued for delivery in the State by a nonprofit health service plan and that insures employees or members and their dependents for hospital, medical, major medical, or surgical insurance on an expense–incurred or service basis, other than a policy that provides coverage only for specific diseases or for accidental injuries.

(2) This section applies to each group policy that is delivered or renewed in the State on the effective date or renewal anniversary date, whichever is later, of the policy.

(c) Each group policy subject to this section shall provide that an insured individual whose coverage under the group policy is terminated for any reason other than failure of the insured individual to pay a required premium or contribution is entitled, on timely written request and without evidence of insurability, to an individual policy of hospital and medical insurance.

(d) The Commissioner may:

(1) exempt from the requirements of this section certain types of group policies or certain types of coverage under group policies that the Commissioner considers appropriate; and

(2) establish conditions under which the conversion privilege does not apply, which may include the replacement of terminated coverage by similar group coverage or by a health program sponsored by a government or the group policyholder.

(e) An individual policy issued under this section shall cover the insured individual whose coverage under the group policy is terminated and any eligible dependents of that insured individual who were covered under the group policy.

(f) An individual policy issued under this section shall take effect immediately after the termination of coverage under the group policy.

(g) (1) An individual policy issued under this section shall provide the benefits that the Commissioner requires.

(2) The Commissioner may establish different requirements and levels of benefits for various types of group policies and coverage.

(3) In establishing minimum requirements, the Commissioner may establish exclusions and benefit limitations that the Commissioner considers appropriate.

(h) The premium for an individual policy issued under this section shall be determined in accordance with the insurer's or nonprofit health service plan's table of premium rates that is applicable to the age and class of risk of each individual covered under the policy and to the type and amount of insurance provided.

(i) (1) The Commissioner shall establish requirements that govern:

(i) notification by the insurer or nonprofit health service plan to the insured individual whose coverage under the group policy is being terminated of the right of conversion to an individual policy; and

(ii) the timely election of the conversion privilege.

(2) The notification requirements shall include a provision in each certificate provided to individuals covered under group or blanket health insurance policies that set forth the conditions applicable to election of the conversion privilege.

(j) Except as otherwise provided in this article, continuation of group coverage at the expense of the insured individual may be required for a period not exceeding 6 months.**]**

[15–415.

(a) (1) In this section the following words have the meanings indicated.

(2) "Group contract" means a health insurance contract or policy that:

(i) is issued or delivered in the State to an employer by an insurer or nonprofit health service plan;

(ii) provides hospital, medical, or surgical benefits on an expense–incurred basis; and

(iii) covers a group of 100 or fewer individuals.

(3) "Succeeding insurer" means the insurer or nonprofit health service plan that issues a succeeding policy.

(4) "Succeeding policy" means a group contract that:

(i) replaces or succeeds a group contract; and

(ii) takes effect within 65 days after the date on which the replaced or succeeded group contract terminates.

(b) (1) Before entering into a group contract, a succeeding insurer shall provide the employer with a written statement that:

(i) describes any waiting periods for preexisting conditions, exclusions, or similar policy provisions in the succeeding policy that limit or exclude coverage; and

(ii) identifies each individual who is covered under the replaced or succeeded group contract but who is ineligible for full coverage under the succeeding policy.

(2) The statement required under paragraph (1) of this subsection must be sufficiently clear and specific so that an individual of average intelligence can understand the statement without making further inquiry to the succeeding insurer.**]**

[15–504.

An individual, group, or blanket health insurance policy:

(1) may not be denied by an insurer or nonprofit health service plan solely because the insured has had a breast implant; and

(2) on renewal, may not impose a waiting period or exclusion for a preexisting condition that limits or excludes coverage solely because the insured has had a breast implant.**]**

[15–507.

(a) (1) This section applies to each group or blanket health insurance contract or policy that is issued or delivered in the State to an employer by an insurer or nonprofit health service plan and that provides hospital, medical, or surgical benefits on an expense–incurred basis.

(2) This section does not apply to a health insurance contract or policy that is issued to a small employer under Subtitle 12 of this title.

(b) Subject to subsections (c) and (d) of this section, an insurer or nonprofit health service plan shall provide coverage to an individual under a contract or policy subject to this section regardless of the health of the individual if:

(1) the individual had coverage under a prior contract or policy issued by the insurer or nonprofit health service plan; and

(2) within 30 days after the coverage under the prior contract or policy terminates, the individual becomes eligible for and accepts coverage from the insurer or nonprofit health service plan under the subsequent contract or policy.

(c) An insurer or nonprofit health service plan may exclude coverage under a contract or policy subject to this section for a medical condition of an individual who obtains coverage under subsection (b) of this section to the extent that:

(1) the contract or policy is issued as part of a group contract; and

(2) the exclusion is applicable to each individual insured under the group contract.

(d) (1) Subject to paragraph (2) of this subsection, an insurer or nonprofit health service plan that issues a subsequent contract or policy to an individual under subsection (b) of this section shall waive a waiting period for coverage of a preexisting condition under the subsequent contract or policy to the extent that the individual has satisfied a waiting period under the individual's prior contract or policy with the insurer or nonprofit health service plan.

(2) If any part of the waiting period under the individual's prior contract or policy has not been satisfied, the insurer or nonprofit health service plan may require the individual to satisfy the remaining part of the waiting period under the subsequent contract or policy, unless the subsequent contract or policy has a shorter waiting period.

(e) This section does not prohibit an insurer or nonprofit health service plan from requiring an individual who was previously insured by the insurer or nonprofit health service plan to complete an application that includes information about the individual's health when applying for subsequent coverage.**]**

[15–1101.

(a) Each nonprofit health service plan that issues or delivers a hospital insurance policy in the State shall offer a catastrophic health insurance policy.

(b) The catastrophic health insurance policy shall provide full coverage for the reasonable cost of necessary health care incurred by the insured up to $1,000,000.

(c) (1) The catastrophic health insurance policy may provide for a deductible for each benefit period.

(2) The deductible may be satisfied by the insured's basic health insurance coverage or major medical health insurance coverage.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

Approved by the Governor, April 9, 2013.

Chapter 107

(House Bill 364)

AN ACT concerning

Swimming Pools – Automated External Defibrillator Programs (Connor's Law)

FOR the purpose of requiring each county or municipality that owns or operates a swimming pool to develop and implement a certain automated external defibrillator program that meets certain requirements for certain swimming pools owned or operated by the county or municipality; ~~requiring the owners and operators of certain swimming pools to develop and implement a certain automated external defibrillator program that meets certain requirements;~~ requiring the Department of Health and Mental Hygiene and the Maryland Institute for Emergency Medical Services Systems jointly to adopt certain regulations; defining a term; and generally relating to requiring certain automated external defibrillator programs for certain swimming pools.

BY adding to

~~Article 24 – Political Subdivisions – Miscellaneous Provisions~~
~~Section 22–101 to be under the new title "Title 22. Automated External Defibrillator Programs"~~
~~Annotated Code of Maryland~~
~~(2011 Replacement Volume and 2012 Supplement)~~

~~BY adding to~~

~~Article – Health – General~~
~~Section 13–2401 to be under the new subtitle "Subtitle 24. Automated External Defibrillator Programs"~~
~~Annotated Code of Maryland~~
~~(2009 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)

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 22. AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAMS.~~

~~22–101.~~

Article – Local Government

1–1309.

(A) IN THIS SECTION, "SWIMMING POOL" MEANS A POOL THAT IS OWNED AND OPERATED BY THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY.

(B) (1) EACH COUNTY OR MUNICIPALITY THAT OWNS OR OPERATES A SWIMMING POOL SHALL DEVELOP AND IMPLEMENT AN AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM THAT MEETS THE REQUIREMENTS OF § 13–517 OF THE EDUCATION ARTICLE FOR EACH SWIMMING POOL OWNED OR OPERATED BY THE COUNTY OR MUNICIPALITY.

(2) THE PROGRAM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE PROVISIONS THAT:

(I) ENSURE AN AUTOMATED EXTERNAL DEFIBRILLATOR IS PROVIDED ON–SITE; AND

(II) AN INDIVIDUAL TRAINED IN THE OPERATION AND USE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR IS PRESENT AT EACH SWIMMING POOL.

(C) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS JOINTLY SHALL ADOPT REGULATIONS THAT:

(1) ESTABLISH GUIDELINES FOR PERIODIC INSPECTIONS AND ANNUAL MAINTENANCE OF THE AUTOMATED EXTERNAL DEFIBRILLATORS; AND

(2) ASSIST EACH COUNTY OR MUNICIPALITY IN CARRYING OUT THE PROVISIONS OF THIS SECTION.

~~Article – Health – General~~

~~SUBTITLE 24. AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAMS.~~

~~13–2401.~~

~~(A) (1) IN THIS SECTION, "SWIMMING POOL" MEANS A POOL THAT:~~

~~(I) IS OPEN FOR GENERAL ADMISSION TO THE PUBLIC;~~

~~(II) IS PROVIDED AS THE OWNER'S PRIMARY BUSINESS OR THE FACILITY'S PRIMARY PURPOSE, INCLUDING A SWIM CLUB OR SIMILAR FACILITY;~~

~~(III) IS PROVIDED BY OR USED BY:~~

~~1. A YOUTH CAMP;~~

~~2. A COLLEGE, UNIVERSITY, OR SCHOOL;~~

~~3. A COUNTRY CLUB; OR~~

~~4. A WATER PARK, AN AMUSEMENT PARK, OR A WATER RECREATIONAL ATTRACTION; OR~~

~~(IV) IS USED FOR SWIMMING LESSONS, WATER SAFETY INSTRUCTION, OR SWIMMING COMPETITIONS.~~

~~(2) IN THIS SECTION, "SWIMMING POOL" DOES NOT MEAN A POOL THAT IS LOCATED:~~

~~(I) AT A FACILITY INTENDED FOR THE USE OF INDIVIDUALS STAYING AT THE FACILITY, INCLUDING A HOTEL OR MOTEL POOL; OR~~

~~(II) ON RESIDENTIAL PROPERTY.~~

~~(B) (1) THE OWNERS AND OPERATORS OF EACH SWIMMING POOL SHALL DEVELOP AND IMPLEMENT AN AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM THAT MEETS THE REQUIREMENTS OF § 13–517 OF THE EDUCATION ARTICLE.~~

~~(2) THE PROGRAM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE PROVISIONS THAT ENSURE:~~

~~(I) AN AUTOMATED EXTERNAL DEFIBRILLATOR IS PROVIDED ON–SITE; AND~~

~~(II) AN INDIVIDUAL TRAINED IN THE OPERATION AND USE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR IS PRESENT AT EACH SWIMMING POOL.~~

~~(C) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS JOINTLY SHALL ADOPT REGULATIONS THAT:~~

~~(1) ESTABLISH GUIDELINES FOR PERIODIC INSPECTIONS AND ANNUAL MAINTENANCE OF THE AUTOMATED EXTERNAL DEFIBRILLATORS; AND~~

~~(2) ASSIST THE OWNERS AND OPERATORS OF EACH SWIMMING POOL IN CARRYING OUT THE PROVISIONS OF 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 108

(House Bill 378)

AN ACT concerning

Maryland Agricultural Land Preservation Fund – Easement Restriction – Reimbursement

FOR the purpose of authorizing the Comptroller to disburse money from the Maryland Agricultural Land Preservation Fund ~~to reimburse a landowner for the release of an easement restriction under a certain circumstance, subject to the prior approval of the board of trustees of the Maryland Agricultural Land Preservation Foundation~~ for the reimbursement of certain money paid by a landowner to the Fund for a certain release of a certain lot in accordance with certain requirements; authorizing the Maryland Agricultural Land Preservation Foundation, subject to certain approval and in accordance with certain regulations, to reimburse certain money paid into the Fund under certain

circumstances; and generally relating to the Maryland Agricultural Land Preservation Fund.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–505(c)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY adding to
Article – Agriculture
Section 2–505(c)(5)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 2–513(b)(2)
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

2–505.

(c) (1) The Comptroller of the Treasury may not disburse any money from the Maryland Agricultural Land Preservation Fund other than:

(i) For costs associated with the staffing and administration of the Maryland Agricultural Land Preservation Foundation;

(ii) For reasonable expenses incurred by the members of the board of trustees of the Maryland Agricultural Land Preservation Foundation in the performance of official duties;

(iii) For consideration in the purchase of agricultural land preservation easements beginning with fiscal year 1979 and each fiscal year thereafter; **[**and**]**

(iv) For costs associated with acquisition of agricultural land preservation easements approved by the Foundation through the Critical Farms Program, as provided in § 2–517 of this subtitle**; AND**

(V) FOR~~, SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF TRUSTEES OF THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION, THE PURPOSE OF REIMBURSING A LANDOWNER FOR THE RELEASE OF AN EASEMENT RESTRICTION AS PROVIDED IN § 2–513(B)(2) OF THIS SUBTITLE WHEN THE LOT IS NOT USED FOR THE PURPOSE OF CONSTRUCTING A DWELLING HOUSE~~ THE REIMBURSEMENT OF MONEY PAID BY A LANDOWNER FOR A PRELIMINARY RELEASE OF A LOT UNDER § 2–513(B)(2) OF THIS SUBTITLE IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.

(5) (I) SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF TRUSTEES OF THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION AND IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT, THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION MAY REIMBURSE MONEY PAID INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND BY A LANDOWNER FOR A LOT THAT HAD BEEN PRELIMINARILY RELEASED UNDER § 2–513(B)(2) OF THIS SUBTITLE FOR THE PURPOSE OF CONSTRUCTING A DWELLING HOUSE FOR A LANDOWNER OR THE CHILD OF THE LANDOWNER.

(II) IN THE SOLE DISCRETION OF THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION, THE PERSON FOR WHOM THE LOT WAS PRELIMINARILY RELEASED, THE PERSON WHO ORIGINALLY PAID FOR THE PRELIMINARY RELEASE, OR ANOTHER APPROPRIATE PERSON MAY BE REIMBURSED THE AMOUNT PAID TO THE FUND UNDER § 2–513(B)(2)(III) OF THIS SUBTITLE IF:

1. A DWELLING HAS NOT BEEN CONSTRUCTED ON THE LOT;

2. A REQUEST FOR REIMBURSEMENT IS MADE BEFORE THE PRELIMINARY RELEASE BECOMES VOID UNDER § 2–513(B)(2) OF THIS SUBTITLE;

3. BEFORE REIMBURSEMENT AND AT THE EXPENSE OF THE OWNER OF THE LAND UNDER THE EASEMENT:

A. THE LOT IS CONVEYED TO THE OWNER FREE AND CLEAR OF LIENS;

B. ANY RECORDED PLAT CREATING THE LOT IS VOIDED;

C. THE LOT IS ADDED TO THE TAX ACCOUNT ASSIGNED TO THE LAND ENCUMBERED BY THE EASEMENT; AND

D. THE PRELIMINARY RELEASE IS VOIDED BY AN AGREEMENT RECORDED IN THE LAND RECORDS; AND

4. AT LEAST ONE OF THE FOLLOWING CIRCUMSTANCES EXISTS:

A. THE FOUNDATION HAS RECEIVED NOTICE THAT TITLE TO THE LOT HAS BEEN TRANSFERRED UNDER A BONA FIDE FORECLOSURE OF A MORTGAGE OR DEED OF TRUST OR A DEED IN LIEU OF FORECLOSURE;

B. THE FOUNDATION HAS RECEIVED NOTICE THAT THE LANDOWNER OR CHILD OF THE LANDOWNER FOR WHOM THE LOT WAS PRELIMINARILY RELEASED HAS DIED; OR

C. ANY OTHER CIRCUMSTANCE IN WHICH THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION DETERMINES THAT IT WOULD BE IMPOSSIBLE FOR THE LANDOWNER OR CHILD OF THE LANDOWNER FOR WHOM THE LOT WAS PRELIMINARILY RELEASED TO FULFILL THE REQUIREMENTS OF THE PRELIMINARY RELEASE.

2–513.

(b) (2) Except as provided in paragraphs (3) and (7) of this subsection, on written application, the Foundation shall release free of easement restrictions only for the landowner who originally sold an easement, 1 acre or less for the purpose of constructing a dwelling house for the use only of that landowner or child of the landowner, up to a maximum of three lots, subject to the following conditions:

(i) The number of lots allowed to be released under this section, except as provided in paragraph (7) of this subsection, may not exceed:

1. 1 lot if the size of the easement property is 20 acres or more but fewer than 70 acres;

2. 2 lots if the size of the easement property is 70 acres or more but fewer than 120 acres; or

3. 3 lots if the size of the easement property is 120 acres or more.

(ii) The resulting density on the property may not exceed the density allowed under zoning of the property before the Foundation purchased the easement.

(iii) The landowner shall pay the State for any acre or portion released at the price per acre that the State paid the owner for the easement.

(iv) If the release is to be issued for a child of the landowner, the child must be at least 18 years of age at the date that the preliminary release is issued.

(v) Before any conveyance or release, the landowner and the child, if there is a conveyance to a child, shall agree not to subdivide further for residential purposes any acreage allowed to be released. The agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(vi) After certifying that the landowner or child of the landowner has met the conditions provided in subparagraphs (i) through (v) of this paragraph, the Foundation shall issue a preliminary release which shall:

1. Become final when the Foundation receives and certifies a nontransferable building permit in the name of the landowner or child of the landowner for construction of a dwelling house; or

2. Become void upon the death of the person for whose benefit the release was intended if the Foundation has not yet received a building permit as provided in this subparagraph; or

3. Unless extended by a majority vote of the Foundation Board of Trustees, become void if a nontransferable building permit in the name of the landowner or child of the landowner is not received by the Foundation within 3 years of the date of recordation of the preliminary release.

(vii) Any release or preliminary release issued under this paragraph shall include:

1. A statement of the conditions under which it was issued, a certification by the Foundation that all necessary conditions for release or preliminary release have been met, and copies of any pertinent documents;

2. A statement by the landowner or child of the landowner that acknowledges that:

A. Adjacent farmland that is subject to an agricultural land preservation easement may be used for any agricultural purpose and may interfere with the use and enjoyment of the property through noise, odor, vibration, fumes, dust, glare, or other interference;

B. There is no recourse against the effects of any normal agricultural operation performed in accordance with good husbandry practices;

C. The landowner's or child's lot may not be transferred for 5 years from the date of the final release, except on:

I. Approval by the Foundation; or

II. Notwithstanding any conditions on transfers imposed under item 1 of this subparagraph, a lender providing notice to the Foundation of a transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed in lieu of foreclosure;

D. If the lot is not used for the person or purpose for which it was released for the 5–year period, the Foundation may require the lot owner to reconvey the lot to the owner of the land encumbered by the easement from which it was released and subject the lot to the restrictions of the easement; and

E. Acknowledgments made under items A, B, C, and D of this item are binding to any successor or assign of the landowner or child.

(viii) Any release, preliminary release, building permit, or other document issued or submitted in accordance with this paragraph shall be recorded among the land records where the land is located and shall bind all future owners.

(ix) The Foundation may not restrict the ability of a landowner who originally sold an easement to acquire a release under this paragraph beyond the requirements provided in this section.

(x) The Foundation may require evidence it deems sufficient to ensure that the persons for whom the lots are released occupy the dwellings located on the lots for the 5–year period.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 109

(House Bill 386)

AN ACT concerning

Income Tax Credit – Qualified Research and Development Expenses – Credit Amounts and Small Business Refund

FOR the purpose of defining "small business" as it relates to a certain refund in connection with a certain credit against the State income tax for certain research and development expenses incurred by an individual or corporation; altering the total amount of research and development credits that the Department of Business and Economic Development may approve in a calendar year; providing that certain unused credits by a small business may be claimed as a refund; providing for the application of this Act; and generally relating to certain credits against the State income tax based on certain expenses paid or incurred for certain research and development conducted in the State.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–721
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

10–721.

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Business and Economic Development.

(3) "Maryland base amount" means the base amount as defined in § 41(c) of the Internal Revenue Code that is attributable to Maryland, determined by:

(i) substituting "Maryland qualified research and development expense" for "qualified research expense";

(ii) substituting "Maryland qualified research and development" for "qualified research"; and

(iii) using, instead of the "fixed base percentage":

1. the percentage that the Maryland qualified research and development expense for the 4 taxable years immediately preceding the taxable year in which the expense is incurred is of the gross receipts for those years; or

2. for a taxpayer who has fewer than 4 but at least 1 prior taxable year, the percentage as determined under item 1 of this item, determined using the number of immediately preceding taxable years that the taxpayer has.

(4) "Maryland gross receipts" means gross receipts that are reasonably attributable to the conduct of a trade or business in this State, determined under methods prescribed by the Comptroller based on standards similar to the standards under § 10–402 of this title.

(5) "Maryland qualified research and development" means qualified research as defined in § 41(d) of the Internal Revenue Code that is conducted in this State.

(6) "Maryland qualified research and development expenses" means qualified research expenses as defined in § 41(b) of the Internal Revenue Code incurred for Maryland qualified research and development.

(7) "SMALL BUSINESS" MEANS A FOR–PROFIT CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR SOLE PROPRIETORSHIP WITH NET BOOK VALUE ASSETS TOTALING, AT THE BEGINNING OR THE END OF THE TAXABLE YEAR FOR WHICH MARYLAND QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES ARE INCURRED, AS REPORTED ON THE BALANCE SHEET, LESS THAN $5,000,000.

(b) Subject to the limitations of this section, an individual or a corporation may claim credits against the State income tax in an amount equal to:

(1) 3% of the Maryland qualified research and development expenses, not exceeding the Maryland base amount for the individual or corporation, paid or incurred by the individual or corporation during the taxable year; and

(2) 10% of the amount by which the Maryland qualified research and development expenses paid or incurred by the individual or corporation during the taxable year exceed the Maryland base amount for the individual or corporation.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, an individual or corporation shall submit an application to the Department for the credits allowed under subsection (b)(1) and (2) of this section.

(2) (i) Except as provided under paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(1) of this section may not exceed **[**$3,000,000**]** ~~**$9,000,000**~~ **$4,000,000** for any calendar year.

(ii) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(1) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(1) of this section in the calendar year.

(3) (i) Except as provided in paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(2) of this section may not exceed **[**$3,000,000**]** ~~**$9,000,000**~~ **$4,000,000** for any calendar year.

(ii) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(2) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(2) of this section in the calendar year.

(4) (i) For any calendar year, if the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section, the maximum specified under paragraph (3)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section.

(ii) For any calendar year, if the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section, the maximum specified under paragraph (2)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section.

(5) By December 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, the Department shall certify to the individual or corporation the amount of the research and development tax credits approved by the Department for the individual or corporation under subsection (b)(1) and (2) of this section.

(6) To claim the approved credits allowed under this section, an individual or corporation shall:

(i) file an amended income tax return for the taxable year in which the Maryland qualified research and development expense was incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

(d) **(1)** **[**If**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF** the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, an individual or corporation may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

[(1)**]** **(I)** the full amount of the excess is used; or

[(2)**]** **(II)** the expiration of the 7th taxable year after the taxable year in which the Maryland qualified research and development expense was incurred.

(2) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, A SMALL BUSINESS MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

(e) (1) In determining the amount of the credit under this section:

(i) all members of the same controlled group of corporations, as defined under § 41(f) of the Internal Revenue Code, shall be treated as a single taxpayer; and

(ii) the credit allowable by this section to each member shall be its proportionate shares of the qualified research expenses giving rise to the credit.

(2) The Comptroller shall adopt regulations providing for:

(i) determination of the amount of the credit under this section in the case of trades or businesses, whether or not incorporated, that are under common control;

(ii) pass–through and allocation of the credit in the case of estates and trusts, partnerships, unincorporated trades or businesses, and S corporations;

(iii) adjustments in the case of acquisitions and dispositions described in § 41(f)(3) of the Internal Revenue Code; and

(iv) determination of the credit in the case of short taxable years.

(3) The regulations adopted under paragraph (2) of this subsection shall be based on principles similar to the principles applicable under § 41 of the Internal Revenue Code and regulations adopted thereunder.

(f) (1) The Department of Business and Economic Development and the Comptroller jointly shall adopt regulations to prescribe standards for determining when research or development is considered conducted in the State for purposes of determining the credit under this section.

(2) In adopting regulations under this subsection, the Department and the Comptroller may consider:

(i) the location where services are performed;

(ii) the residence or business location of the person or persons performing services;

(iii) the location where supplies used in research and development are consumed; and

(iv) any other factors that the Department determines are relevant for the determination.

(g) (1) On or before January 10 of each year, the Department shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, on the credits approved under this section.

(2) The report required under paragraph (1) of this subsection shall include for each individual or corporation approved to receive a credit under subsection (b)(1) and (2) of this section in the prior calendar year:

(i) the individual's or corporation's name and address; and

(ii) the amount of the credit approved.

(3) The report required under paragraph (1) of this subsection shall include the name of the individual or corporation and the aggregate amount of credits approved in all calendar years for each individual or corporation under subsection (b)(1) and (2) of this section.

(4) The report required under paragraph (1) of this subsection shall summarize for the credits approved under subsection (b)(1) of this section and for the credits approved under subsection (b)(2) of this section:

(i) the total number of applicants for credits under this section in each calendar year;

(ii) the number of applications for which a tax credit was approved in each calendar year; and

(iii) the total credits authorized under this section for all calendar years under this section.

(h) If the provisions of § 41 of the Internal Revenue Code governing the federal research and development tax credit are repealed or terminate, the provisions of this section continue to operate as if the provisions of § 41 of the Internal Revenue Code remain in effect, and the Maryland research and development tax credit under this section shall continue to be available.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all Maryland research and development tax credits certified after December 15, ~~2013~~ 2012.

Approved by the Governor, April 9, 2013.

Chapter 110

(House Bill 388)

AN ACT concerning

Maryland Condominium Act – Closed Meetings of Board of Directors

FOR the purpose of altering the purposes for which a meeting of the board of directors of a condominium council of unit owners may be held in closed session; and generally relating to meetings of the board of directors of a condominium council of unit owners.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–109.1
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 – Real Property

11–109.1.

(a) A meeting of the board of directors may be held in closed session only for the following purposes:

(1) Discussion of matters pertaining to employees and personnel;

(2) Protection of the privacy or reputation of individuals in matters not related to the council of unit owners' business;

(3) Consultation with legal counsel on legal matters;

(4) Consultation with staff personnel, consultants, attorneys, board members, or other persons in connection with pending or potential litigation or other legal matters;

(5) Investigative proceedings concerning possible or actual criminal misconduct;

(6) **CONSIDERATION OF THE TERMS OR CONDITIONS OF A BUSINESS TRANSACTION IN THE NEGOTIATION STAGE IF THE DISCLOSURE COULD ADVERSELY AFFECT THE ECONOMIC INTERESTS OF THE COUNCIL OF UNIT OWNERS;**

(7) Complying with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure; or

[(7)**] (8)** Discussion of individual owner assessment accounts.

(b) If a meeting is held in closed session under subsection (a) of this section:

(1) An action may not be taken and a matter may not be discussed if it is not permitted by subsection (a) of this section; and

(2) A statement of the time, place, and purpose of any closed meeting, the record of the vote of each board member by which any meeting was closed, and the authority under this section for closing any meeting shall be included in the minutes of the next meeting of the board of directors.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 111

(House Bill 392)

AN ACT concerning

Motor Vehicle Liability Insurance – Personal Injury Protection Coverage – Prohibition on Premium Increase

FOR the purpose of prohibiting an insurer that issues a motor vehicle liability insurance policy that contains personal injury protection coverage from increasing the premium on the policy due to a claim or payment made under that coverage; requiring the insurer, at the time the policy is issued, to notify the policyholder in writing that the insurer may not increase the premium on the policy due to a claim made under the policy's personal injury protection coverage; defining "increase the premium" to include an increase in total premium for a policy due to a surcharge, retiering or other reclassification of the policy, or removal or reduction of a discount; making certain stylistic and conforming changes; providing for the application of this Act; and generally relating to motor vehicle liability insurance and personal injury protection coverage.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 19–507
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

19–507.

(a) The benefits described in § 19–505 of this subtitle shall be payable without regard to:

(1) the fault or nonfault of the named insured or the recipient of benefits in causing or contributing to the motor vehicle accident; and

(2) any collateral source of medical, hospital, or wage continuation benefits.

(b) (1) Subject to paragraph (2) of this subsection, if the insured has both coverage for the benefits described in § 19–505 of this subtitle and a collateral source

of medical, hospital, or wage continuation benefits, the insurer or insurers may coordinate the policies to provide for nonduplication of benefits, subject to appropriate reductions in premiums for one or both of the policies approved by the Commissioner.

(2) The named insured may:

(i) elect to coordinate the policies by indicating in writing which policy is to be the primary policy; or

(ii) reject the coordination of policies and nonduplication of benefits.

(c) **(1) IN THIS SUBSECTION, "INCREASE THE PREMIUM" INCLUDES AN INCREASE IN TOTAL PREMIUM FOR A POLICY DUE TO:**

(I) A SURCHARGE;

(II) RETIERING OR OTHER RECLASSIFICATION OF THE POLICY; OR

(III) REMOVAL OR REDUCTION OF A DISCOUNT.

(2) An insurer that issues a policy that contains the coverage described in § 19–505 of this subtitle**:**

(I) may not **[**impose a surcharge or retier**] INCREASE THE PREMIUM ON** the policy **[**for**] DUE TO** a claim or payment made under that coverage **[**and,**]; AND**

(II) at the time the policy is issued, shall notify the policyholder in writing that **[**a surcharge may not be imposed and the policy may not be retiered for**] THE INSURER MAY NOT INCREASE THE PREMIUM ON THE POLICY DUE TO** a claim or payment made under that coverage.

(d) An insurer that provides the benefits described in § 19–505 of this subtitle does not have a right of subrogation and does not have a claim against any other person or insurer to recover any benefits paid because of the alleged fault of the other person in causing or contributing to a motor vehicle accident.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of 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, April 9, 2013.

Chapter 112

(House Bill 401)

AN ACT concerning

Military Department – Powers of the Adjutant General – Summary Courts–Martial

FOR the purpose of authorizing the Adjutant General to adopt certain rules and regulations; requiring certain rules and regulations to conform to a certain code and certain rules, regulations, and statutes; providing that when certain rules and regulations have been adopted and published by the Adjutant General, they shall have the force and effect of law and constitute a lawful order; providing that adoption and publication of rules and regulations by the Adjutant General are exempt from the requirements of the Administrative Procedure Act; altering the procedures for and penalties that may be imposed by summary courts–martial for the organized militia; and generally relating to powers of the Adjutant General and summary courts–martial.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 13–302 and 13–812
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article – Public Safety
Section 13–808
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Public Safety
Section 13–808 and 13–808.1
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–102
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 – Public Safety

13–302.

(a) (1) The Adjutant General may appoint:

(i) a chief of State operations;

(ii) an executive officer;

(iii) an administrative officer;

(iv) the directors of military installations, procurement, military support to civil authorities, State personnel, finance, and veterans affairs;

(v) the site managers for military reservations; and

(vi) a grants administrator.

(2) The executive officer and directors appointed under paragraph (1) of this subsection serve at the pleasure of the Adjutant General.

(b) (1) The Adjutant General shall keep all records required to be kept and filed with the Adjutant General's office.

(2) On or before each October 15, the Adjutant General shall submit to the Governor a detailed statement of all the receipts and expenditures for military purposes during the year ending the previous September 30.

(c) (1) On request, the Adjutant General or the Adjutant General's designee shall assist the spouse of a member of the military who resides in the State or is transferred to the State in finding employment in the State.

(2) The assistance provided under paragraph (1) of this subsection may include providing:

(i) the informational form developed by the State Department of Education under § 6–201.1 of the Education Article;

(ii) information relating to health occupations in the State that permit reciprocal licensure; and

(iii) information relating to business occupations in the State that permit reciprocal licensure.

(d) (1) The Adjutant General is responsible for:

(i) each armory that the State owns; and

(ii) each building or other property purchased, occupied, or leased by or on behalf of the State military forces.

(2) If the Adjutant General rejects an application to use an armory for nonmilitary purposes, the application is subject to review and approval by the Board of Public Works, the Adjutant General, and the commanding officer of the unit occupying that armory.

(3) The Adjutant General may adopt regulations to enforce this subsection.

(e) The Adjutant General is the custodian of battle flags and war records and is responsible for their proper care and preservation.

(f) The Adjutant General may employ employees as required.

(g) The Adjutant General shall carry out the Governor's policies concerning matters specified in this title and Title 14, Subtitles 1, 2, and 4 of this article.

(h) The seal of the Adjutant General's office shall be delivered by the Adjutant General to the Adjutant General's successor.

(I) (1) THE ADJUTANT GENERAL MAY ADOPT RULES AND REGULATIONS TO GOVERN, DISCIPLINE, AND ESTABLISH CRITERIA FOR THE PERFORMANCE OF DUTIES OF THE ORGANIZED MILITIA OF THE STATE, AS DEFINED IN § 13–203 OF THIS TITLE.

(2) THE RULES AND REGULATIONS SHALL, TO THE EXTENT PRACTICABLE, CONFORM <u>TO THE UNIFORM CODE OF MILITARY JUSTICE (UCMJ) AND</u> TO THE RULES, REGULATIONS, AND STATUTES OF THE DEPARTMENT OF DEFENSE, THE ARMY, THE AIR FORCE, AND THE NATIONAL GUARD BUREAU OF THE UNITED STATES.

(3) WHEN THE RULES AND REGULATIONS HAVE BEEN ADOPTED AND PUBLISHED BY THE ADJUTANT GENERAL, THEY SHALL HAVE THE FORCE AND EFFECT OF LAW AND CONSTITUTE A LAWFUL ORDER.

(4) ADOPTION AND PUBLICATION OF RULES AND REGULATIONS UNDER PARAGRAPH (3) OF THIS SUBSECTION ARE EXEMPT FROM THE REQUIREMENTS OF TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

[13–808.

(a) (1) The commanding officer of a garrison, fort, post or other place, regiment or corps, detached battalion, company, or other detachment may appoint for that command or place a summary court–martial.

(2) A summary court–martial shall consist of one officer.

(b) A summary court officer may:

(1) try an enlisted individual of the summary court–martial's place or command for a breach of discipline or violation of law governing the place or command; and

(2) administer an oath.

(c) (1) The proceedings of a summary court–martial shall be informal.

(2) The minutes of a summary court–martial shall be the same as prescribed for the minutes for a summary court of the United States Army or Air Force.**]**

13–808.

(A) ENLISTED SOLDIERS AND NONCOMMISSIONED OFFICERS OF THE ORGANIZED MILITIA MAY BE SUBJECTED TO SUMMARY COURT–MARTIAL IN ACCORDANCE WITH THE PROCEDURES AND PENALTIES ADOPTED BY THE ADJUTANT GENERAL UNDER § 13–302 OF THIS TITLE.

(B) CONVICTION BY A SUMMARY COURT–MARTIAL DOES NOT CONSTITUTE A CONVICTION FOR THE PURPOSE OF ANY DISQUALIFICATION OR DISABILITY IMPOSED BY LAW BECAUSE OF CONVICTION OF A CRIME.

13–808.1.

ALL MEMBERS OF THE ORGANIZED MILITIA MAY BE SUBJECTED TO NONJUDICIAL PUNISHMENT IN ACCORDANCE WITH THE PROCEDURES AND PENALTIES ADOPTED BY THE ADJUTANT GENERAL UNDER § 13–302 OF THIS TITLE.

13–812.

(a) A general court–martial may impose one or more of the following penalties:

(1) **[**except as provided in subsection (d) of this section,**]** a fine not exceeding $200;

(2) forfeiture of pay and allowances;

(3) reprimand;

(4) dismissal or dishonorable discharge from the service;

(5) reduction of noncommissioned officers to the ranks; or

(6) confinement, in lieu of a fine, not to exceed 1 day for each dollar of fine authorized.

(b) (1) Except as provided in paragraph (2) of this subsection, a special court–martial may impose the penalties listed in subsection (a) of this section.

(2) A special court–martial may not impose a fine exceeding $100.

[(c) A summary court–martial may impose the following penalties:

(1) a fine not exceeding $25 for a single offense;

(2) reduction of noncommissioned officer to the ranks;

(3) forfeiture of pay and allowances; or

(4) confinement, in lieu of a fine, not to exceed 1 day for each dollar of fine authorized.**]**

(C) A SUMMARY COURT–MARTIAL MAY IMPOSE A SENTENCE THAT INCLUDES:

(1) A FINE OF NOT MORE THAN THE MEMBER'S PAY AND ALLOWANCES FOR FOUR UNIT TRAINING ASSEMBLIES;

(2) A FORFEITURE OF UP TO TWO–THIRDS OF THE MEMBER'S PAY AND ALLOWANCES FOR UP TO FOUR UNIT TRAINING ASSEMBLIES;

(3) REDUCTION IN RANK IN THE FOLLOWING MANNER:

(I) FOR ENLISTED PERSONNEL IN THE GRADE OF E5 AND ABOVE, TO THE NEXT INFERIOR PAY GRADE; OR

(II) FOR ENLISTED PERSONNEL IN THE GRADE OF E4 AND BELOW, TO THE LOWEST ENLISTED GRADE; OR

(4) FOR MEMBERS IN THE RANK OF E4 AND BELOW ONLY, CONFINEMENT FOR A PERIOD NOT TO EXCEED 30 DAYS.

(d) **[**An enlisted individual convicted of an offense listed in § 13–803 of this subtitle is subject to a fine not exceeding $100.

(e)**]** A sentence of dismissal from the service or dishonorable discharge imposed by a court–martial may not be executed until approved by the Governor.

Article – State Government

10–102.

(a) Except as otherwise expressly provided by law, this subtitle applies to:

(1) each unit in the Executive Branch of the State government; and

(2) each unit that:

(i) is created by public general law; and

(ii) operates in at least 2 counties.

(b) This subtitle does not apply to:

(1) a unit in the Legislative Branch of the State government;

(2) a unit in the Judicial Branch of the State government;

(3) the Injured Workers' Insurance Fund;

(4) a board of license commissioners; **[**or**]**

(5) the Rural Maryland Council**; OR**

(6) THE MILITARY DEPARTMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 113

(House Bill 420)

AN ACT concerning

Vehicle Laws – Maryland Transportation Authority – Payment of Tolls

FOR the purpose of altering procedures of the Maryland Transportation Authority for the collection of unpaid tolls through a certain notice and a citation for toll violations; altering the contents of a certain citation; altering procedures for paying or contesting the amounts due under a citation; providing for the admissibility and prima facie effect of the information in a citation in any proceeding to contest liability; altering certain defenses to a citation; altering procedures for collection of unpaid tolls and civil penalties; ~~authorizing the publication of the names of toll violators;~~ providing for the payment of court costs in certain toll violation cases; providing that a certain surcharge may not be added to court costs imposed in certain toll violation cases; establishing the venue for contesting a citation; authorizing reciprocal agreements with other jurisdictions for enforcement of toll violations; defining certain terms; altering certain definitions; clarifying language; making conforming changes; providing for the application of this Act to certain tolls previously incurred; requiring the Authority to adopt certain regulations before a certain date; providing for the effective dates of this Act; and generally relating to the issuance of citations for nonpayment of tolls on Maryland Transportation Authority facilities.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 7–301(a)(1) and (2) and (f)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – State Government~~
~~Section 10–616(m)(1)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–1414, 26–401, and 27–110
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to
Article – Transportation
Section 21–1415
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 – Courts and Judicial Proceedings

7–301.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, the court costs in a traffic case, including parking and impounding cases, cases under § 21–202.1, § 21–809, § 21–810, **§ 21–1414,** or § 24–111.3 of the Transportation Article in which costs are imposed, and cases under § 10–112 of the Criminal Law Article in which costs are imposed:

(i) Are $22.50 plus the surcharge under subsection (f) of this section; and

(ii) Shall also be applicable to those cases in which the defendant elects to waive the defendant's right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court by administrative regulation.

(2) In an uncontested case under § 21–202.1, § 21–809, § 21–810, **§ 21–1414,** or § 24–111.3 of the Transportation Article, an uncontested case under § 10–112 of the Criminal Law Article, or an uncontested parking or impounding case in which the fines are paid directly to a political subdivision or municipality, costs are $2.00, which costs shall be paid to and retained by the political subdivision or municipality.

(f) (1) This subsection does not apply to a traffic case under § 21–202.1, § 21–809, **[**or § 21–810**] § 21–810, OR § 21–1414** of the Transportation Article or to a parking or impounding case.

~~**Article – State Government**~~

~~10–616.~~

~~(m) (1) Subject to the provisions of paragraph (2) of this subsection **AND EXCEPT AS PROVIDED IN § 21–1414(D)(6)(I)3 OF THE TRANSPORTATION ARTICLE**, a custodian shall deny inspection of all photographs, videotapes or~~

~~electronically recorded images of vehicles, vehicle movement records, personal financial information, credit reports, or other personal or financial data created, recorded, obtained by or submitted to the Maryland Transportation Authority or its agents or employees in connection with any electronic toll collection system or associated transaction system.~~

Article – Transportation

21–1414.

(a) (1) In this section the following words have the meanings indicated.

(2) "AUTHORITY" MEANS THE MARYLAND TRANSPORTATION AUTHORITY.

[(2)**] (3)** "Electronic toll collection" means a system **[**of collecting tolls or charges**] IN A TOLL COLLECTION FACILITY** that is capable of **[**charging an account holder for the appropriate toll by electronic transmission of**] COLLECTING** information **[**between a device on a motor vehicle and a device in a toll lane at a toll collection facility**] FROM A MOTOR VEHICLE FOR USE IN CHARGING TOLLS**.

(4) "NOTICE OF TOLL DUE" OR "NOTICE" MEANS ~~A WRITTEN~~ AN ADMINISTRATIVE NOTICE OF A VIDEO TOLL TRANSACTION.

[(3) "Pay" means paying a toll by cash, by permitting a charge against a valid account with the Maryland Transportation Authority, or by another means of payment approved by the Authority at the time.**]**

(5) "PERSON ALLEGED TO BE LIABLE" MEANS:

(I) THE REGISTERED OWNER OF A MOTOR VEHICLE INVOLVED IN A VIDEO TOLL TRANSACTION; OR

(II) A PERSON TO WHOM A REGISTERED OWNER OF A MOTOR VEHICLE HAS TRANSFERRED LIABILITY FOR A VIDEO TOLL TRANSACTION IN ACCORDANCE WITH THIS SECTION AND THE REGULATIONS OF THE AUTHORITY.

(6) "RECORDED IMAGE" MEANS AN IMAGE OF A MOTOR VEHICLE PASSING THROUGH A TOLL COLLECTION FACILITY RECORDED BY A VIDEO MONITORING SYSTEM:

(I) ON:

1. ONE OR MORE PHOTOGRAPHS, MICROGRAPHS, OR ELECTRONIC IMAGES;

2. VIDEOTAPE; OR

3. ANY OTHER MEDIUM; AND

(II) SHOWING EITHER THE FRONT OR REAR OF THE MOTOR VEHICLE ON AT LEAST ONE IMAGE OR PORTION OF TAPE AND CLEARLY IDENTIFYING THE LICENSE PLATE NUMBER AND STATE OF THE MOTOR VEHICLE.

(7) "REGISTERED OWNER" MEANS, WITH RESPECT TO A MOTOR VEHICLE, THE PERSON OR PERSONS DESIGNATED AS THE REGISTERED OWNER IN THE RECORDS OF THE STATE AGENCY THAT IS RESPONSIBLE FOR MOTOR VEHICLE REGISTRATION.

(8) "TOLL COLLECTION FACILITY" MEANS ANY POINT ON AN AUTHORITY HIGHWAY WHERE A TOLL IS INCURRED AND IS REQUIRED TO BE PAID.

(9) "TOLL VIOLATION" MEANS THE FAILURE TO PAY A VIDEO TOLL WITHIN THE TIME PRESCRIBED BY THE AUTHORITY IN A NOTICE OF TOLL DUE.

[(4)**] (10) [**"Video–monitoring system"**] "VIDEO MONITORING SYSTEM"** means a **[**motor vehicle sensor**] DEVICE** installed to work in conjunction with a toll collection facility that **[**automatically**]** produces a **[**photograph, microphotograph, videotape, or other**]** recorded image **[**of the license plate of a motor vehicle when the operator of the motor vehicle fails to pay a toll**] WHEN A VIDEO TOLL TRANSACTION OCCURS**.

(11) "VIDEO TOLL" MEANS THE AMOUNT ASSESSED BY THE AUTHORITY WHEN A VIDEO TOLL TRANSACTION OCCURS.

(12) "VIDEO TOLL TRANSACTION" MEANS ANY TRANSACTION IN WHICH A MOTOR VEHICLE DOES NOT OR DID NOT PAY A TOLL AT THE TIME OF PASSAGE THROUGH A TOLL COLLECTION FACILITY WITH A VIDEO MONITORING SYSTEM.

(b) (1) **[**If the operator of a motor vehicle fails to pay the prescribed toll at any Authority highway where tolls are collected by means of electronic toll collection, the**] EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, THE** registered owner of **[**the**] A** motor vehicle shall be liable to the **[**Maryland Transportation**]**

Authority for payment of **[**the**]** **A VIDEO** toll **[**and a civil penalty**]** as provided for in the regulations of the **[**Maryland Transportation**]** Authority.

(2) THE AUTHORITY SHALL SEND THE REGISTERED OWNER OF A MOTOR VEHICLE THAT HAS INCURRED A VIDEO TOLL A NOTICE OF TOLL DUE.

(3) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, THE PERSON ALLEGED TO BE LIABLE WHO RECEIVES A NOTICE OF TOLL DUE SHALL HAVE 30 DAYS TO PAY THE VIDEO TOLL.

(C) (1) FAILURE OF THE PERSON ALLEGED TO BE LIABLE TO PAY THE VIDEO TOLL UNDER A NOTICE OF TOLL DUE BY THE DATE STATED ON THE NOTICE SHALL CONSTITUTE A TOLL VIOLATION SUBJECT TO CIVIL CITATION AND CIVIL PENALTY AS PROVIDED FOR IN THE REGULATIONS OF THE AUTHORITY.

(2) A registered owner of a **MOTOR** vehicle shall not be liable for a civil penalty imposed under this section if the operator of the **MOTOR** vehicle has been convicted of failure or refusal to pay a toll under § 21–1413 of this subtitle for the same violation.

[(c)**]** **(D)** (1) The **[**Maryland Transportation**]** Authority or its duly authorized agent shall send a citation via first–class mail, no later than 60 days after the **[**alleged**]** **TOLL** violation, to **[**each**]** **THE** person alleged to be liable under this section **[**as a registered owner**]**.

(2) Personal service **OF THE CITATION** **[**upon**]** **ON** the **[**registered owner**]** **PERSON ALLEGED TO BE LIABLE** shall not be required, and a record of mailing kept in the ordinary course of business shall be admissible evidence of the mailing of the **NOTICE OF TOLL DUE AND** citation.

(3) A citation shall contain:

(i) The name and address of the **[**registered owner**]** **PERSON** alleged to be liable under this section;

(ii) The **[**registration**]** **LICENSE PLATE** number **AND STATE OF REGISTRATION** of the motor vehicle involved in **[**such violation**]** **THE VIDEO TOLL TRANSACTION**;

(iii) The location where **[**such violation**]** **THE VIDEO TOLL TRANSACTION** took place;

(iv) The date and time of **[**such violation**]** **THE VIDEO TOLL TRANSACTION**;

(v) The amount of the **[**toll not paid**] VIDEO TOLL AND THE DATE IT WAS DUE AS STATED ON THE NOTICE OF TOLL DUE**;

(VI) A COPY OF THE RECORDED IMAGE;

(VII) A STATEMENT THAT THE VIDEO TOLL WAS NOT PAID BY THE DATE STATED ON THE NOTICE OF TOLL DUE;

[(vi)**] (VIII)** The amount of the civil penalty; and

[(vii)**] (IX)** The date by which the **VIDEO** toll and **CIVIL** penalty must be paid.

(4) A citation shall also include:

(i) Information advising the person **ALLEGED TO BE** liable under this section of the manner and the time in which liability alleged in the citation may be contested;

(ii) The statutory defenses described in subsection **[**(f)**] (G)** of this section **THAT WERE ORIGINALLY INCLUDED IN THE NOTICE OF TOLL DUE**; and

(iii) A warning that failure to pay the **VIDEO** toll and civil **[**penalty or**] PENALTY,** to contest liability in the manner and time prescribed**, OR TO APPEAR AT A TRIAL REQUESTED** is an admission of liability and a waiver of available defenses, and may result in **[**the entry of a default judgment or in**]** the refusal or suspension of the motor vehicle registration **AND REFERRAL FOR COLLECTION**.

(5) A person **ALLEGED TO BE LIABLE** receiving the citation for a **TOLL** violation under this section may:

(i) Pay the **VIDEO** toll and the civil penalty directly to the **[**Maryland Transportation**]** Authority; or

(ii) Elect to stand trial for the alleged violation.

(6) **(I)** If the **[**registered owner of a motor vehicle who is**] PERSON ALLEGED TO BE** liable under this section fails to **ELECT TO STAND TRIAL OR TO** pay the prescribed **VIDEO** toll and civil penalty within **[**60**] 30** days after mailing of the citation, **OR IS ADJUDICATED TO BE LIABLE AFTER TRIAL, OR FAILS TO APPEAR AT TRIAL AFTER HAVING ELECTED TO STAND TRIAL,** the **[**Maryland Transportation**]** Authority or its duly authorized agent may:

[(i)**]** **1.** Collect the **[**toll,**]** **VIDEO TOLL AND** the civil penalty**[**, and administrative expenses by civil action commenced in the District Court for the jurisdiction in which the alleged failure to pay a toll occurred; or**]** **BY ANY MEANS OF COLLECTION AS PROVIDED BY LAW; *AND***

[(ii)**]** **2.** Notify the Administration of the failure to pay the **VIDEO** toll and civil penalty in accordance with § 27–110 of this article~~; AND~~

~~3. PUBLISH THE NAME, CITY AND COUNTY OF RESIDENCE, AND TOTAL AMOUNT DUE OF UNPAID TOLL VIOLATIONS AND CIVIL PENALTIES THAT HAVE BEEN INCURRED AND REMAIN DUE TO THE AUTHORITY~~.

(II) NO ADDITIONAL HEARING OR PROCEEDING IS REQUIRED BEFORE THE ADMINISTRATION TAKES ACTION WITH RESPECT TO THE REGISTERED VEHICLE OF THE OWNER UNDER § 27–110 OF THIS ARTICLE.

[(d)**]** **(E)** **(1)** A certificate alleging that a **[**failure to pay a**]** toll **VIOLATION** occurred, sworn to or affirmed by a duly authorized agent of the **[**Maryland Transportation**]** Authority, based upon inspection of **[**photographs, videotape, or other electronically recorded images of the license plate of a motor vehicle produced by an electronic toll collection video–monitoring system**]** **A RECORDED IMAGE AND ELECTRONIC TOLL COLLECTION RECORDS PRODUCED BY AN ELECTRONIC TOLL COLLECTION VIDEO MONITORING SYSTEM** shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this section **WITHOUT THE PRESENCE OR TESTIMONY OF THE DULY AUTHORIZED AGENT WHO PERFORMED THE REQUIREMENTS UNDER THIS SECTION**.

(2) THE CITATION, INCLUDING THE CERTIFICATE, SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF LIABILITY FOR THE TOLL VIOLATION AND CIVIL PENALTY.

[(e)**]** **(F)** Adjudication of liability under this section:

(1) Shall be based upon a preponderance of evidence;

(2) May not be deemed a conviction of a registered owner of a motor vehicle under the Motor Vehicle Code;

(3) May not be made part of the registered owner's motor vehicle operating record; and

(4) May not be considered in the provision of motor vehicle insurance coverage.

[(f)] **(G)** (1) If**, AT THE TIME OF A VIDEO TOLL TRANSACTION, A MOTOR VEHICLE IS OPERATED BY** a person other than the registered owner [of the motor vehicle is adjudicated responsible for the failure to pay the toll,] **WITHOUT THE EXPRESS OR IMPLIED CONSENT OF THE REGISTERED OWNER, AND IF THE REGISTERED OWNER WITHIN 30 DAYS OF RECEIVING THE NOTICE OF TOLL DUE PROVIDES THE AUTHORITY OR ITS DULY AUTHORIZED AGENT WITH A NOTARIZED ADMISSION BY THE PERSON ACCEPTING LIABILITY WHICH SHALL INCLUDE THAT PERSON'S NAME, ADDRESS, AND DRIVER'S LICENSE IDENTIFICATION NUMBER,** then the [registered owner is not] **PERSON ACCEPTING LIABILITY SHALL BE** liable under this section **AND SHALL BE SENT A NOTICE OF TOLL DUE**.

(2) If the registered owner is a lessor of motor vehicles, and at the time of the [failure to pay a toll] **VIDEO TOLL TRANSACTION** the motor vehicle involved was in the possession of a lessee, and the lessor within 30 days of the [citation] **NOTICE OF TOLL DUE** provides the [Maryland Transportation] Authority or its duly authorized agent with a copy of the lease agreement **OR OTHER DOCUMENTATION ACCEPTABLE TO THE AUTHORITY** identifying the lessee, then the lessee shall be liable under this section **AND SHALL BE SENT A NOTICE OF TOLL DUE**.

(3) If the motor vehicle involved in [a failure to pay a toll] **A VIDEO TOLL TRANSACTION** is operated using a dealer or transporter registration plate, and at the time of the [violation] **VIDEO TOLL TRANSACTION** the motor vehicle was under the custody and control of a person other than the **OWNER OF THE** dealer or transporter **REGISTRATION PLATE**, and if the **OWNER OF THE** dealer or transporter **REGISTRATION PLATE** within 30 days of the [citation identifies] **NOTICE OF TOLL DUE PROVIDES** to the [Maryland Transportation] Authority or its duly authorized agent **A COPY OF THE CONTRACTUAL AGREEMENT OR OTHER DOCUMENTATION ACCEPTABLE TO THE AUTHORITY IDENTIFYING** the person who had custody and control over the motor vehicle at the time of the [violation] **VIDEO TOLL TRANSACTION**, then that person and not the **OWNER OF THE** dealer or transporter **REGISTRATION PLATE** shall be liable under this section **AND SHALL BE SENT A NOTICE OF TOLL DUE**.

(4) If a motor vehicle is reported to a law enforcement agency as stolen at the time of the [failure to pay a toll, or within a reasonable period of time after the registered owner becomes aware of the theft,] **VIDEO TOLL TRANSACTION, AND THE REGISTERED OWNER WITHIN 30 DAYS OF THE NOTICE OF TOLL DUE PROVIDES TO THE AUTHORITY OR ITS DULY AUTHORIZED AGENT A COPY OF THE POLICE REPORT SUBSTANTIATING THAT THE MOTOR VEHICLE WAS STOLEN AT THE TIME OF THE VIDEO TOLL TRANSACTION,** then the registered owner of the motor vehicle is not liable under this section.

[(5) (i) If within 30 days of notice of a violation, a registered owner provides to the Maryland Transportation Authority or its duly authorized agent substantial evidence of the identity of the person who was operating the motor vehicle at the time of the violation, then that person shall be subject to liability under this section and shall be sent a citation under subsection (c) of this section.

(ii) If that person subsequently admits to or is adjudicated responsible for failure to pay the toll, then the registered owner is not liable under this section.**]**

21–1415.

(A) THE MARYLAND TRANSPORTATION AUTHORITY IN CONSULTATION WITH THE ADMINISTRATOR MAY ENTER INTO AN AGREEMENT WITH ANOTHER JURISDICTION THAT PROVIDES FOR RECIPROCAL ENFORCEMENT OF TOLL VIOLATIONS BETWEEN THE STATE AND THE OTHER JURISDICTION.

(B) AN AGREEMENT MADE UNDER THIS SECTION SHALL PROVIDE THAT DRIVERS AND VEHICLES LICENSED IN THE STATE, WHILE OPERATING ON THE HIGHWAYS OF ANOTHER JURISDICTION, SHALL RECEIVE BENEFITS, PRIVILEGES, AND EXEMPTIONS OF A SIMILAR KIND WITH REGARD TO TOLL ENFORCEMENT AS ARE EXTENDED TO DRIVERS AND VEHICLES LICENSED OR REGISTERED IN THE OTHER JURISDICTION WHILE OPERATED IN THE STATE.

(C) A RECIPROCAL AGREEMENT UNDER THIS SECTION MAY PROVIDE FOR ENFORCEMENT OF TOLL VIOLATIONS BY REFUSAL OR SUSPENSION OF THE REGISTRATION OF A MOTOR VEHICLE IN ACCORDANCE WITH § 27–110 OF THIS ARTICLE.

26–401.

If a person is taken before a District Court commissioner or is given a traffic citation or a civil citation under § 21–202.1, § 21–809, § 21–810, **§ 21–1414,** or § 24–111.3 of this article containing a notice to appear in court, the commissioner or court shall be one that sits within the county in which the offense allegedly was committed.

27–110.

(a) The Administration **[**may not register or transfer**] SHALL REFUSE OR SUSPEND** the registration of any **MOTOR** vehicle **[**involved in a failure to pay**] INCURRING** a toll violation under § 21–1414 of this article if:

(1) It is notified by the Maryland Transportation Authority that a registered owner **[**who has received a notice of violation of**] HAS BEEN SERVED WITH**

A CITATION IN ACCORDANCE WITH § 21–1414 of this article **[**has failed to either**] AND**:

(i) **[**Pay**] HAS FAILED TO PAY** the **VIDEO** toll and the civil penalty for the **TOLL** violation by the date specified in the **[**notice of violation**] CITATION**; or

(ii) **[**File a notice of intention**] HAS FAILED** to contest liability for the **TOLL** violation **BY THE DATE IDENTIFIED AND IN THE MANNER SPECIFIED IN THE CITATION**; or

(2) It is notified by the **MARYLAND TRANSPORTATION AUTHORITY OR THE** District Court that a person who elected to contest liability for a **TOLL** violation **[**of**] UNDER** § 21–1414 of this article has failed to appear for trial **OR HAS BEEN DETERMINED TO BE GUILTY OF THE TOLL VIOLATION AND HAS FAILED TO PAY THE VIDEO TOLL AND RELATED CIVIL PENALTY**.

(b) **[**Notwithstanding the provisions of subsection (a) of this section, the Administration may suspend the registration of a vehicle involved in a failure to pay a toll violation under § 21–1414 of this article if notified by the Maryland Transportation Authority that the violator is a chronic offender.

(c)**]** In conjunction with the Maryland Transportation Authority, the Administration may adopt **[**rules and**]** regulations **[**to define chronic offender and to**] AND** develop procedures to carry out the **[**suspension and refusal to register or transfer**] REFUSAL OR SUSPENSION OF A** registration **AS** authorized by this section.

[(d)**] (C)** The procedures specified in this section are in addition to any other penalty provided by law for **[**the failure to pay a toll or appear for trial for a failure to pay a toll violation**] TOLL VIOLATIONS** under § 21–1414 of this article.

(D) THE PROVISIONS OF THIS SECTION MAY BE APPLIED TO ENFORCE A RECIPROCAL AGREEMENT ENTERED INTO BY THE STATE AND ANOTHER JURISDICTION IN ACCORDANCE WITH § 21–1415 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to any previously incurred toll that remains unpaid on the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Transportation Authority shall adopt regulations implementing this Act before July 1, 2013.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect June 1, 2013.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 114

(House Bill 428)

AN ACT concerning

Child Abuse and Neglect – Reports and Records – Disclosure to Public Institutions of Higher Education

FOR the purpose of authorizing the disclosure of a report or record of child abuse or neglect to the presidents of certain public ~~higher education~~ institutions of higher education or the Chancellor of the University System of Maryland for certain purposes if the abuse was committed under certain circumstances; and generally relating to disclosure of reports and records of child abuse and neglect.

BY repealing and reenacting, without amendments,
Article – Human Services
Section 1–202(a)
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–202(c)
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

1–202.

(a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family Law Article, § 1–203 of this subtitle, and this section, a person may not disclose a report or record concerning child abuse or neglect.

(c) A report or record concerning child abuse or neglect:

(1) may be disclosed on request to:

(i) personnel of the Social Services Administration or a local department of social services, law enforcement personnel, and members of multidisciplinary case consultation teams, including an addiction specialist as defined in Title 5, Subtitle 12 of the Family Law Article or § 5–314 of this article, who are investigating a report of known or suspected child abuse or neglect or providing services to or assessing a child or family that is the subject of the report;

(ii) local or State officials responsible for the administration of child protective services, or child care, foster care, or adoption licensing, approval, or regulations, as necessary to carry out their official functions;

(iii) the State Council on Child Abuse and Neglect or its designee, the State Citizens Review Board for Children or its designee, or a child fatality review team, as necessary to carry out their official functions;

(iv) a person who is the alleged abuser or neglector, if that person is responsible for the child's welfare and provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

(v) a licensed practitioner who, or an agency, institution, or program that, is providing treatment or care to a child who is the subject of a report of child abuse or neglect for a purpose relevant to the treatment or care;

(vi) a parent or other person who has permanent or temporary care and custody of the child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;

(vii) 1. the appropriate public school superintendent or the principal or equivalent employee of a nonpublic school that holds a certificate of approval from the State or is registered with the State Department of Education to carry out appropriate personnel or administrative actions following a report of suspected child abuse involving a student committed by:

A. a public school employee in that school system;

B. an employee of that nonpublic school;

C. an independent contractor who supervises or works directly with students in that school system or that nonpublic school; or

D. an employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school system or that nonpublic school; and

2. if the report concerns suspected child abuse involving a student committed by an employee, independent contractor, or employee of an independent contractor described in item 1 of this item and employed by a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington, the appropriate superintendent of schools;

(viii) the director of a licensed child care facility or licensed child placement agency to carry out appropriate personnel actions following a report of suspected child abuse or neglect alleged to have been committed by an employee of the facility or agency and involving a child who is currently or was previously under the care of that facility or agency;

(ix) the Juvenile Justice Monitoring Unit of the Office of the Attorney General established under Title 6, Subtitle 4 of the State Government Article; **[**or**]**

(x) subject to subsection (d) of this section, a licensed practitioner of a hospital or birthing center to make discharge decisions concerning a child, when the practitioner suspects that the child may be in danger after discharge based on the practitioner's observation of the behavior of the child's parents or immediate family members; **[**and**] OR**

(XI) THE PRESIDENT OF A MARYLAND PUBLIC ~~SENIOR HIGHER EDUCATION~~ INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN § 10–101 OF THE EDUCATION ARTICLE, OR THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND, TO CARRY OUT APPROPRIATE PERSONNEL OR ADMINISTRATIVE ACTIONS FOLLOWING A REPORT OF CHILD ABUSE COMMITTED:

1. BY ~~A CURRENT OR FORMER~~ AN EMPLOYEE OF THE INSTITUTION~~;~~ WHO HAS ON–CAMPUS CONTACT WITH CHILDREN; OR

2. BY A CONTRACTOR, AN EMPLOYEE OF A CONTRACTOR, OR A VOLUNTEER OF THE INSTITUTION WHO HAS ON–CAMPUS CONTACT WITH CHILDREN;

~~3. IN CONNECTION WITH A PROGRAM, A CAMP, OR ANOTHER ACTIVITY SPONSORED, RECOGNIZED, OR APPROVED BY THE INSTITUTION; OR~~

~~4. ON INSTITUTION PROPERTY;~~ AND

(2) may be disclosed by the Department of Human Resources to the operator of a child care center that is required to be licensed or to hold a letter of compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family child care provider who is required to be registered under Title 5, Subtitle 5, Part V of the Family Law Article, to determine the suitability of an individual for employment in the child care center or family child care home.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 115

(House Bill 431)

AN ACT concerning

Insurance – Maryland Insurance Acquisitions Disclosure and Control Act – Revisions

FOR the purpose of authorizing the Maryland Insurance Commissioner to participate in a certain supervisory college; describing the powers of the Commissioner with respect to supervisory colleges; authorizing the Commissioner to enter into certain agreements; providing that the purposes of certain provisions of law include promoting the public interest by providing standards governing material transactions between an insurer and its affiliates; adding a factor to be considered in determining whether an insurer's assets and surplus as regards policyholders are reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs; providing for the confidentiality of certain documents and information under certain provisions of law; providing that certain information and documents are not subject to discovery or admissible in certain actions; providing that certain material may be made public under certain circumstances; providing that certain persons must comply with certain requirements before making certain tender offers for or agreements to merge with a person that controls a domestic insurer; requiring certain persons seeking to acquire control of a domestic insurer, persons that control a domestic insurer, or insurance holding companies controlling a domestic insurer to file a certain pre–acquisition notification; requiring a controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer to file a certain notice; requiring certain persons seeking to acquire control of a domestic insurer to file a certain statement with the Commissioner and provide a copy to the domestic insurer; requiring the statement to include certain information; requiring the filing of an amendment to the statement under certain circumstances; establishing certain violations; requiring insurers subject to

certain registration requirements to include certain information in the registration statement; requiring certain persons to file an annual enterprise risk report that includes certain information; authorizing the sharing of certain information in an enterprise risk report under certain circumstances; authorizing the Commissioner, in verifying information in the registration statement, including the enterprise risk to an insurer by an ultimate controlling person, to order certain insurers to produce certain information; authorizing the Commissioner to retain the services of certain persons to assist in the conduct of certain examinations; providing a process for reviewing disclaimers of affiliation and receiving an administrative hearing if a disclaimer of affiliation is denied; providing that an insurer that does not file a certain registration statement, summary, or enterprise risk report may be subject to a certain penalty; providing that when it appears to the Commissioner that a person has committed a certain violation, the violation may serve as an independent basis for disapproving certain dividends or distributions and for placing an insurer under a certain order of supervision; supplementing the standards to which certain transactions within an insurance holding company system are subject; providing that a certain notice be given before a domestic insurer and another member of the same insurance holding company system enter into certain transactions; providing that certain transactions are subject to certain notice requirements; altering the penalty amounts for persons that willfully violate certain provisions of law; requiring certain directors or officers of an insurance holding company system who engage in certain activities to pay, in their individual capacity, a certain civil penalty under certain circumstances; authorizing the Commissioner to petition for certain injunctive or other relief under certain circumstances; authorizing the Commissioner to institute criminal proceedings in a certain court against certain persons under certain circumstances; establishing ~~a~~ certain criminal ~~penalty~~ violations subject to certain penalties; altering certain definitions; defining certain terms; providing for a delayed effective date; and generally relating to the Maryland Insurance Acquisitions Disclosure and Control Act.

BY adding to
Article – Insurance
Section 2–209.1, 7–608, 7–802.1, and 7–807
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 2–209(g)(1), 7–101, 7–102, 7–105, 7–106, 7–201, 7–302 through 7–304, 7–306, 7–309, 7–603, 7–605 through 7–607, 7–702, 7–703, 7–802, and 7–805
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing

Article – Insurance
Section 7–807
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

2–209.

(g) (1) This subsection applies only to a document, material, or information other than an adopted examination report that:

(i) is in the control or possession of the Commissioner; and

(ii) is obtained or generated during an analysis or examination conducted under § 2–205 or § 2–206 of this subtitle**, TITLE 7 OF THIS ARTICLE,** or § 23–103, § 15–10B–19, or § 15–10B–20 of this article.

2–209.1.

(A) IN THIS SECTION, "SUPERVISORY COLLEGE" MEANS A FORUM FOR COOPERATION AND COMMUNICATION AMONG THE INVOLVED STATE, FEDERAL, AND INTERNATIONAL REGULATORS ESTABLISHED FOR THE FUNDAMENTAL PURPOSE OF FACILITATING THE EFFECTIVENESS OF SUPERVISION OF ENTITIES THAT BELONG TO AN INSURANCE HOLDING COMPANY SYSTEM.

(B) (1) WITH RESPECT TO ANY INSURER REGISTERED UNDER TITLE 7, SUBTITLE 6 OF THIS ARTICLE, THE COMMISSIONER MAY PARTICIPATE IN A SUPERVISORY COLLEGE FOR ANY DOMESTIC INSURER THAT IS PART OF AN INSURANCE HOLDING COMPANY SYSTEM WITH ~~NATIONAL OR~~ INTERNATIONAL OPERATIONS IN ORDER TO DETERMINE COMPLIANCE BY THE INSURER WITH THIS ARTICLE.

(2) THE POWERS OF THE COMMISSIONER WITH RESPECT TO A SUPERVISORY COLLEGE INCLUDE:

(I) INITIATING THE ESTABLISHMENT OF A SUPERVISORY COLLEGE;

(II) DETERMINING THE MEMBERSHIP AND PARTICIPATION OF OTHER SUPERVISORS IN THE SUPERVISORY COLLEGE;

(III) DETERMINING THE FUNCTIONS OF THE SUPERVISORY COLLEGE AND THE ROLE OF OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORS;

(IV) COORDINATING THE ONGOING ACTIVITIES OF THE SUPERVISORY COLLEGE, INCLUDING PLANNING MEETINGS, SUPERVISORY ACTIVITIES, AND PROCESSES FOR SHARING INFORMATION; AND

(V) ESTABLISHING A CRISIS MANAGEMENT PLAN ON THE OCCURRENCE OF ANY ACTIVITY, CIRCUMSTANCE, EVENT, OR SERIES OF EVENTS INVOLVING ONE OR MORE AFFILIATES OF AN INSURER THAT HAS, OR IS LIKELY TO HAVE, A MATERIAL ADVERSE EFFECT ON THE FINANCIAL CONDITION OR LIQUIDITY OF THE INSURER OR ITS INSURANCE HOLDING COMPANY SYSTEM AS A WHOLE.

(3) (I) EACH INSURER SUBJECT TO REGISTRATION UNDER § 7–603 OF THIS ARTICLE SHALL BE LIABLE FOR AND SHALL PAY THE REASONABLE EXPENSES OF THE COMMISSIONER'S PARTICIPATION IN A SUPERVISORY COLLEGE, INCLUDING TRAVEL EXPENSES.

(II) A SUPERVISORY COLLEGE MAY BE CONVENED AS EITHER A TEMPORARY OR A PERMANENT FORUM FOR COMMUNICATION AND COOPERATION AMONG THE REGULATORS CHARGED WITH SUPERVISING AN INSURER OR ITS AFFILIATES, AND THE COMMISSIONER MAY ESTABLISH A REGULAR ASSESSMENT TO AN INSURER FOR THE PAYMENT OF EXPENSES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(4) (I) IN ORDER TO ASSESS THE BUSINESS STRATEGY, FINANCIAL POSITION, LEGAL AND REGULATORY POSITION, RISK EXPOSURE, RISK MANAGEMENT, AND GOVERNANCE PROCESSES OF AN INSURER OR ITS AFFILIATES, AND AS PART OF THE EXAMINATION OF INSURERS UNDER § 7–605 OF THIS ARTICLE, THE COMMISSIONER MAY PARTICIPATE IN A SUPERVISORY COLLEGE WITH OTHER REGULATORS CHARGED WITH SUPERVISING AN INSURER OR ITS AFFILIATES, INCLUDING OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY AGENCIES.

(II) NOTHING IN THIS SECTION MAY BE CONSTRUED TO DELEGATE TO THE SUPERVISORY COLLEGE ANY OF THE AUTHORITY OF THE COMMISSIONER TO REGULATE THE INSURER OR THE ACTIVITIES OF ITS AFFILIATES WITHIN THE STATE.

(C) THE COMMISSIONER MAY ENTER INTO AGREEMENTS PROVIDING THE BASIS FOR COOPERATION BETWEEN THE COMMISSIONER AND OTHER STATE, FEDERAL, AND INTERNATIONAL REGULATORY AGENCIES AND THE

ACTIVITIES OF THE SUPERVISORY COLLEGE IN ACCORDANCE WITH § 2–209(H) OF THIS SUBTITLE.

7–101.

(a) In this title the following words have the meanings indicated.

(b) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(c) "Control", "controlling", "controlled by", or "under common control with" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, through ownership of voting securities or of securities convertible into voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, whether or not the power is exercised or sought to be exercised **UNLESS THE POWER IS THE RESULT OF AN OFFICIAL POSITION WITH OR CORPORATE OFFICE HELD BY THE PERSON**.

(D) (1) "ENTERPRISE RISK" MEANS ANY ACTIVITY, CIRCUMSTANCE, EVENT, OR SERIES OF EVENTS INVOLVING ONE OR MORE AFFILIATES OF AN INSURER THAT, IF NOT REMEDIED PROMPTLY, IS LIKELY TO HAVE A MATERIAL ADVERSE EFFECT ON THE FINANCIAL CONDITION OR LIQUIDITY OF THE INSURER OR ITS INSURANCE HOLDING COMPANY SYSTEM AS A WHOLE.

(2) "ENTERPRISE RISK" INCLUDES ANYTHING THAT WOULD:

(I) CAUSE THE INSURER'S RISK BASED CAPITAL TO FALL ~~INTO~~ TO OR BELOW A COMPANY ACTION LEVEL UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE; OR

(II) CAUSE THE INSURER TO BE IN A HAZARDOUS FINANCIAL CONDITION UNDER § 9–102 OF THIS ARTICLE.

[(d)**] (E)** "Insurance holding company" means a person that directly or indirectly controls an insurer or controls a person that controls an insurer.

[(e)**] (F)** "Insurance holding company system" means two or more affiliates, at least one of which is an insurer.

[(f)**] (G)** "Subsidiary" means an affiliate of a person that, directly or indirectly, through one or more intermediaries, is controlled by that person.

(H) "ULTIMATE CONTROLLING PERSON" MEANS THE PERSON WITHIN A HOLDING COMPANY SYSTEM THAT IS NOT CONTROLLED BY ANY OTHER PERSON.

7–102.

(a) The General Assembly finds that the public interest and the interest of policyholders and stockholders may be adversely affected when:

(1) control of an insurer is sought by a person that would use that control adversely to the best interest of policyholders or stockholders;

(2) acquisition of control of an insurer would substantially lessen competition or create a monopoly in the insurance business in the State;

(3) an insurer that is part of an insurance holding company system enters into transactions or relationships with affiliates on terms that are not fair and reasonable; or

(4) an insurer pays to stockholders dividends that jeopardize the financial condition of the insurer.

(b) The purposes of this title include promoting the public interest by:

(1) requiring disclosures in acquisitions or mergers;

(2) requiring disclosures of material transactions, relationships between an insurer and its affiliates, and dividends to stockholders paid by insurers;

(3) requiring disclosures of relevant information about changes in control of insurers; **[**and**]**

(4) **PROVIDING STANDARDS GOVERNING MATERIAL TRANSACTIONS BETWEEN AN INSURER AND ITS AFFILIATES; AND**

(5) establishing penalties for failure to disclose and providing for the disapproval of certain transactions.

7–105.

(a) For purposes of this title, in determining whether an insurer's assets and surplus as regards policyholders are reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of insurance;

(4) the geographical dispersion of the insurer's insured risks;

(5) the nature and extent of reinsurance of the insurer's risks;

(6) the quality, diversification, and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trends in the size of the insurer's surplus as regards policyholders;

(8) the surplus as regards policyholders maintained by comparable insurers;

(9) the quality and liquidity of investments in and other transactions with affiliates;

(10) the adequacy of the reserves of the insurer; **[**and**]**

(11) the quality of the earnings of the insurer and the extent to which the reported earnings include extraordinary items**; AND**

(12) THE RECENT PAST AND PROJECTED FUTURE TRENDS IN THE SIZE AND QUALITY OF THE INSURER'S INVESTMENT PORTFOLIO.

(b) The Commissioner may discount an investment or treat an investment under subsection (a)(9) of this section as a nonadmitted asset for purposes of determining the adequacy of surplus as regards policyholders whenever the investment so warrants.

7–106.

(a) Except as provided in subsections (b) and (c) of this section or otherwise by law, all information and documents that are filed with the Commissioner in compliance with the requirements of this title or that are reported to, obtained by, or otherwise disclosed to the Commissioner or any other person in the course of an examination or investigation made under this title:

(1) are confidential material;

(2) are not subject to subpoena; ~~and~~

(3) may not be made public by the Commissioner, the National Association of Insurance Commissioners, or any other person**; AND**

(4) ARE NOT SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

(b) Material that otherwise is confidential under subsection (a) of this section may be made public by any person **[**to whom**] WHO HAS RECEIVED THE PRIOR WRITTEN CONSENT OF** the **[**insurer**] PERSON** to **[**which**] WHOM** the material relates **[**gives prior written consent**]**.

(c) If, after giving **[**an insurer and its affiliates**] THE PERSON TO WHOM THE MATERIAL RELATES** notice and an opportunity to be heard, the Commissioner determines that it is in the interest of the policyholders, stockholders, or the public to make public any material relating to the **[**insurer**] PERSON** that otherwise is confidential under subsection (a) of this section, the Commissioner may make public all or part of the material in an appropriate manner.

7–201.

(a) In addition to any other investment allowed elsewhere in this article, a domestic insurer, either alone or with another person, may invest in or otherwise acquire a subsidiary that engages in or is registered to engage in one or more of the following insurance businesses or business activities that are ancillary to an insurance business:

(1) conducting an insurance business that is authorized by the jurisdiction where the subsidiary is incorporated;

(2) acting as an **[**insurance agency**] INSURANCE PRODUCER** for its parent, its parent's insurer subsidiaries, or its parent's intermediate insurer subsidiaries;

(3) investing, reinvesting, or trading in securities for itself, its affiliate, its parent, or another subsidiary of its parent;

(4) managing an investment company that is subject to the Investment Company Act of 1940, including managing related sales and services of the investment company;

(5) acting as a broker–dealer that is subject to the Securities Exchange Act of 1934;

(6) providing investment advice to governments, governmental units, corporations, or other organizations or groups;

(7) performing other services related to the operations of an insurance business, including actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services;

(8) owning and managing assets that its parent may own and manage;

(9) acting as administrative agent for a governmental unit that performs an insurance function;

(10) financing insurance premiums;

(11) conducting any other business activity that is reasonably ancillary to an insurance business; or

(12) owning one or more corporations engaged exclusively in or organized to engage exclusively in one or more of the business activities specified in this section.

(b) Subject to the approval of the Commissioner and to the provisions of this title, a domestic mutual insurer may acquire or form a subsidiary insurance holding company.

7–302.

With respect to a transaction subject to this subtitle, a person must comply with all requirements of this subtitle before the person:

(1) makes a tender offer for, invites tenders of, enters into an agreement to exchange securities for, or otherwise acquires any voting security or security convertible into voting security of a domestic insurer**,** or **[**of**] A PERSON, INCLUDING** an insurance holding company **[**controlling**], THAT CONTROLS** a domestic insurer; or

(2) makes an agreement to merge with or otherwise to acquire control of a domestic insurer**,** or **[**of**] A PERSON, INCLUDING** an insurance holding company **[**controlling**], THAT CONTROLS** a domestic insurer.

7–303.

(a) With respect to a transaction subject to this subtitle, a **[**domestic insurer or a person controlling a domestic insurer**] PERSON SEEKING TO ACQUIRE CONTROL OF A DOMESTIC INSURER** must file with the Commissioner the pre–acquisition notification required under Subtitle 4 of this title.

(b) The pre–acquisition notification must be filed at least 30 days before a transaction subject to this subtitle is proposed to become effective.

(c) The Commissioner may impose sanctions under § 7–405 of this title for failure to file the information required under subsection (a) of this section.

(D) (1) ANY PERSON THAT CONTROLS A DOMESTIC INSURER SEEKING TO DIVEST ITS CONTROLLING INTEREST IN THE DOMESTIC INSURER SHALL FILE A CONFIDENTIAL NOTICE OF ITS PROPOSED DIVESTITURE WITH THE COMMISSIONER AT LEAST 30 DAYS BEFORE THE PROPOSED DIVESTITURE AND PROVIDE A COPY OF THE NOTICE TO THE INSURER.

(2) THE COMMISSIONER SHALL DETERMINE THOSE INSTANCES IN WHICH THE PARTY SEEKING TO DIVEST A CONTROLLING INTEREST IN AN INSURER MUST FILE FOR AND OBTAIN APPROVAL OF THE TRANSACTION.

(3) THE INFORMATION REGARDING THE DIVESTITURE SHALL REMAIN CONFIDENTIAL UNTIL THE CONCLUSION OF THE TRANSACTION UNLESS, IN THE COMMISSIONER'S DISCRETION, THE COMMISSIONER DETERMINES THAT CONFIDENTIAL TREATMENT WILL INTERFERE WITH ENFORCEMENT OF THIS SECTION.

(4) ~~THIS~~ UNLESS THE COMMISSIONER DETERMINES OTHERWISE, THIS SUBSECTION ~~MAY~~ DOES NOT APPLY IF THE STATEMENT REQUIRED BY SUBSECTION (A) OF THIS SECTION IS FILED.

7–304.

(a) **[**(1)**]** A **PERSON SEEKING TO ACQUIRE CONTROL OF A** domestic insurer**[**, or a person that is primarily engaged directly or indirectly in the insurance business and that controls a domestic insurer,**]** must file a statement with the Commissioner **AND PROVIDE A COPY TO THE DOMESTIC INSURER**.

[(2) If the Commissioner determines that a person controlling a domestic insurer is, directly or through affiliates, primarily engaged in a business other than the insurance business, the person need not comply with paragraph (1) of this subsection.**]**

(b) The statement must be filed at least 60 days before a transaction subject to this subtitle is proposed to become effective.

(c) The statement required by subsection (a) of this section must contain:

(1) the name and address of each individual, by or for whom the transaction subject to this subtitle is to be made, and background information about the individual, including:

(i) the principal occupation of and all offices and positions held by the individual during the past 10 years; and

(ii) other than minor traffic offenses, crimes of which the individual has been convicted during the past 10 years;

(2) the name and address of each person that is not an individual, by or for whom the transaction subject to this subtitle is to be made, and background information about the person, including:

(i) the nature of the person's business operations and those of its predecessors during the past 10 years or any shorter period that the person and any predecessors have existed;

(ii) a description of the business that the person and its subsidiaries intend to do;

(iii) a list of the person's current directors and executive officers, individuals who have been selected to hold those positions, and individuals who perform or will perform functions appropriate to those positions; and

(iv) for each individual listed under subitem (iii) of this item:

1. the principal occupation of and all offices and positions held by the individual during the past 10 years; and

2. other than minor traffic offenses, crimes of which the individual has been convicted during the past 10 years;

(3) fully audited financial information about the earnings and financial condition of each acquiring person and any predecessor for the past 5 fiscal years or any shorter period that each acquiring person and any predecessor have existed;

(4) similar unaudited financial information dated within 90 days before the statement is filed;

(5) (i) copies of all actual or proposed tender offers, invitations for tender, exchange offers, and agreements to acquire or exchange that relate to any security described in this subtitle;

(ii) if distributed, copies of any additional soliciting materials that relate to the actions described in subitem (i) of this item;

(6) the source and amount of the funds or other consideration for a transaction subject to this subtitle and, if a part of the funds or other consideration has been or is to be borrowed or otherwise obtained for a transaction subject to this

subtitle, a description of that transaction and the names of the parties to that transaction;

(7) any plans or proposals to liquidate the domestic insurer or insurance holding company controlling a domestic insurer, sell its assets, merge it with any person, or make any other major change in its business or corporate structure or management;

(8) with regard to any security connected with a transaction subject to this subtitle:

(i) the number of shares each acquiring person proposes to acquire;

(ii) the terms of the offer, invitation, agreement, or transaction subject to this subtitle; and

(iii) a statement of the method by which the fairness of the proposal was determined;

(9) the name and address of each person and each of that person's affiliates holding the following securities, the amount held in each class of the securities, and, for the past 2 years, the dates, amounts, and prices of sales and purchases of the securities by the person or affiliate:

(i) beneficially owned voting securities of the domestic insurer;

(ii) voting securities of the domestic insurer in which there is a right to acquire beneficial ownership;

(iii) beneficially owned securities that may be converted into voting securities of the domestic insurer; and

(iv) securities in which there is a right to acquire beneficial ownership that may be converted into voting securities of the domestic insurer;

(10) the names of the parties to and details of any contracts, arrangements, or understandings about securities of the domestic insurer or insurance holding company controlling the domestic insurer, including contracts, arrangements, or understandings providing for:

(i) transfers of the securities;

(ii) joint ventures;

(iii) loan or option arrangements;

(iv) puts or calls;

(v) loan guarantees;

(vi) guarantees against loss or guarantees of profits;

(vii) divisions of losses or profits; and

(viii) giving or withholding of proxies;

(11) a description of the purchase of any security described in this subtitle during the 12 calendar months immediately preceding the filing of the statement by an acquiring person, including:

(i) the dates of purchase;

(ii) the names of the purchasers; and

(iii) the consideration paid or agreed to be paid;

(12) a description of any recommendations to purchase any security subject to this subtitle made during the 12 calendar months immediately preceding the filing of the statement by:

(i) an acquiring person; or

(ii) any other person, based on interviews with or at the suggestion of the acquiring person;

(13) the terms of any agreements **MADE OR PROPOSED TO BE MADE** with**[**, including the amount of any fees, commissions, or other compensation to be paid to,**]** brokers, securities dealers, service organizations, or other persons**, INCLUDING THE AMOUNT OF ANY FEES, COMMISSIONS, OR OTHER COMPENSATION TO BE PAID,** for soliciting shares for tender; **[**and**]**

(14) AN AGREEMENT BY THE PERSON REQUIRED TO FILE THE STATEMENT UNDER THIS SECTION THAT THE PERSON WILL PROVIDE THE ANNUAL REPORT SPECIFIED IN § 7–603(H) OF THIS TITLE FOR AS LONG AS CONTROL EXISTS;

(15) AN ACKNOWLEDGMENT BY THE PERSON REQUIRED TO FILE THE STATEMENT UNDER THIS SECTION THAT THE PERSON AND ALL AFFILIATES IN THE INSURANCE HOLDING COMPANY SYSTEM WILL PROVIDE INFORMATION TO THE COMMISSIONER ON REQUEST AS NECESSARY TO EVALUATE ENTERPRISE RISK TO THE INSURER; AND

[(14)**] (16)** other information necessary or appropriate in the public interest or for the protection of policyholders that the Commissioner requires by regulation.

(d) (1) If the person required to file a statement under this section is a partnership, limited partnership, syndicate, or other group, the statement also shall include the information required by subsection (c) of this section for:

(i) each partner of the partnership or limited partnership;

(ii) each member of the syndicate or group; and

(iii) each person controlling a partner or member.

(2) If a person required to file the statement under this section is a corporation or if a person referred to in paragraph (1) of this subsection is a corporation, the statement also shall include the information required by subsection (c) of this section for:

(i) the corporation;

(ii) each officer and director of the corporation; and

(iii) each person that directly or indirectly is the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

(3) IF ANY MATERIAL CHANGE OCCURS IN THE FACTS SET FORTH IN THE STATEMENT FILED WITH THE COMMISSIONER AND PROVIDED TO THE INSURER UNDER THIS SECTION, AN AMENDMENT, TOGETHER WITH COPIES OF ANY DOCUMENTS OR OTHER MATERIALS NECESSARY TO DESCRIBE THE AMENDMENT, SHALL BE FILED WITH THE COMMISSIONER AND PROVIDED TO THE INSURER WITHIN THE EARLIER OF 2 BUSINESS DAYS AFTER:

(I) THE CHANGE OCCURS; OR

(II) THE PERSON THAT FILED THE STATEMENT LEARNS OF THE CHANGE.

(e) A person that is required to file a statement under this section instead may file with the Commissioner, in addition to any other materials that the Commissioner requests:

(1) a registration statement filed under the Securities Act of 1933;

(2) a disclosure containing similar information filed under the Securities Exchange Act of 1934; or

(3) a registration or disclosure that contains similar information filed under another State law.

(f) (1) Except as provided in paragraph (2) of this subsection, on request of the person filing the statement, the Commissioner may not make public the name of a lender listed under subsection (c)(6) of this section as a source of funds, unless the transaction is made in the lender's ordinary course of business.

(2) The Commissioner may make public the name of a lender under paragraph (1) of this subsection if the Commissioner considers the disclosure to be in the public interest.

(g) The Commissioner shall provide the statement filed under this section to the person to be acquired on the date the attempt to acquire is made public.

7–306.

(a) A transaction subject to this subtitle may not be made unless, within 60 days after the statement required by § 7–304 of this subtitle is filed with the Commissioner or within any extension of that period, the Commissioner approves the transaction or does not disapprove the transaction.

(b) Subject to subsection (c) of this section, the Commissioner shall disapprove a proposed transaction subject to this subtitle if the Commissioner finds that:

(1) after the transaction, the domestic insurer could not satisfy the requirements for the issuance of a certificate of authority to engage in the insurance business which it intends to transact **OR IS LICENSED TO TRANSACT** in the State, taking into consideration the financial and managerial resources and future prospects of the domestic insurer;

(2) the transaction may substantially lessen competition in insurance in the State or tend to create a monopoly;

(3) the financial condition of an acquiring person might jeopardize the financial stability of the domestic insurer or prejudice the interests of its policyholders or, in the case of an acquisition of control, the interests of any remaining stockholders who are unaffiliated with the acquiring person;

(4) the acquiring person has plans or proposals that are unfair or prejudicial to policyholders for liquidating the domestic insurer, selling its assets, merging it with another person, or making any other major change in its business or corporate structure or management;

(5) it would not be in the interest of policyholders, shareholders, or the public to allow the acquiring person to control the domestic insurer based on the competence, experience, and integrity of the persons that would control the operations of the domestic insurer;

(6) any party to an agreement to merge with a domestic insurer is not itself an insurer; or

(7) the interests of the domestic insurer's policyholders and stockholders might otherwise be prejudiced, impaired, or not properly protected.

(c) In disapproving a transaction based on a finding under subsection (b)(2) of this section:

(1) the Commissioner may not disapprove a transaction subject to this subtitle if the Commissioner finds that any of the situations meeting the criteria of § 7–405(b) of this title exist;

(2) the Commissioner may condition the approval of a transaction subject to this subtitle on the removal of the basis of disapproval under subsection (b)(2) of this section within a specified period of time; and

(3) the disapproval is subject to § 7–405(c) of this title and the informational requirements under § 7–403(c) of this title.

7–309.

A person violates this title if:

(1) the person fails to file the statement required by this subtitle; **[**or**]**

(2) **[**the person,**]** without the Commissioner's approval during the 60–day period under § 7–306(a) of this subtitle, or after the Commissioner's disapproval, **THE PERSON** makes or attempts to make an acquisition of actual or presumed control of**,** or a merger with**,** a domestic insurer or **A PERSON, INCLUDING AN** insurance holding company **[**controlling**], THAT CONTROLS** a domestic insurer**; OR**

(3) WITHOUT THE COMMISSIONER'S APPROVAL DURING THE 30–DAY PERIOD UNDER § 7–303(D) OF THIS SUBTITLE, OR AFTER THE COMMISSIONER'S DISAPPROVAL, THE PERSON DIVESTS OR ATTEMPTS TO DIVEST ACTUAL OR PRESUMED CONTROL OF A DOMESTIC INSURER OR A PERSON, INCLUDING AN INSURANCE HOLDING COMPANY, THAT CONTROLS A DOMESTIC INSURER.

7–603.

(a) Each insurer subject to registration shall file the registration statement on the form provided by the Commissioner, containing the following current information:

(1) the corporate and capital structure, general financial condition, ownership, and management of the insurer and of any person controlling the insurer;

(2) the identity and relationship of each member of the insurance holding company system;

(3) any pledge of the insurer's stock, including stock of a subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(4) the following agreements in force, and transactions currently outstanding or that have occurred during the previous calendar year between the insurer and the insurer's affiliates:

(i) loans, other investments, purchases, sales, and exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) purchases, sales, and exchanges of assets;

(iii) transactions not in the ordinary course of business;

(iv) except for insurance contracts entered into in the ordinary course of the insurer's business, guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure to liability of the insurer's assets;

(v) management agreements, service contracts, and cost–sharing arrangements;

(vi) reinsurance agreements;

(vii) dividends and other distributions to shareholders; and

(viii) consolidated tax allocation agreements;

(5) STATEMENTS THAT THE INSURER'S BOARD OF DIRECTORS OVERSEES CORPORATE GOVERNANCE AND INTERNAL CONTROLS AND THAT THE INSURER'S OFFICERS OR SENIOR MANAGEMENT HAVE APPROVED, IMPLEMENTED, AND CONTINUE TO MAINTAIN AND MONITOR CORPORATE GOVERNANCE AND INTERNAL CONTROL PROCEDURES;

(6) ON REQUEST FROM THE COMMISSIONER AND IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION, FINANCIAL STATEMENTS OF OR WITHIN AN INSURANCE HOLDING COMPANY SYSTEM, INCLUDING ALL AFFILIATES;

[(5)**] (7)** any other matters about transactions between the insurer and its affiliates that the registration statement form requires; and

[(6)**] (8)** a summary outlining all items in the current registration statement that represent changes from the prior registration statement.

(b) Each affiliate in an insurance holding company system shall give an insurer subject to registration under this subtitle that is in the same insurance holding company system complete and accurate information if that information is reasonably necessary to enable the insurer to comply with this subtitle.

(c) Each insurer required to register under this subtitle shall**[**:

(1) file with the National Association of Insurance Commissioners a copy of the registration statement required by subsection (a) of this section; and

(2)**],** on request of the **INSURANCE** commissioner of any state where the insurer is authorized to do business, file with that commissioner a copy of the registration statement summary required by subsection **[**(a)(6)**] (A)(8)** of this section.

(d) The Commissioner may allow or require affiliated insurers subject to registration under this subtitle to file a consolidated registration statement.

(e) The Commissioner may require an insurer that is a member of an insurance holding company system and that is not subject to registration under this subtitle to provide to the Commissioner a copy of the registration statement or other information that the insurer files with the commissioner of the insurer's domiciliary jurisdiction.

(F) (1) FINANCIAL STATEMENTS REQUIRED UNDER SUBSECTION (A)(6) OF THIS SECTION MAY INCLUDE ANNUAL AUDITED FINANCIAL STATEMENTS FILED WITH THE U.S. SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

(2) AN INSURER REQUIRED TO FILE FINANCIAL STATEMENTS UNDER SUBSECTION (A) OF THIS SECTION MAY SATISFY THE REQUEST BY PROVIDING THE COMMISSIONER WITH THE MOST RECENTLY FILED PARENT CORPORATION FINANCIAL STATEMENTS THAT HAVE BEEN FILED WITH THE U.S. SECURITIES AND EXCHANGE COMMISSION.

(G) (1) UNLESS OTHERWISE PROVIDED BY THE COMMISSIONER THROUGH REGULATION OR ORDER, A SALE, A PURCHASE, AN EXCHANGE, A LOAN OR AN EXTENSION OF CREDIT, AN INVESTMENT, OR A GUARANTEE INVOLVING 0.5% OR LESS OF AN INSURER'S ADMITTED ASSETS AS OF THE DECEMBER 31 IMMEDIATELY PRECEDING THE TRANSACTION IS NOT MATERIAL FOR PURPOSES OF THIS SECTION.

(2) INFORMATION NEED NOT BE DISCLOSED ON THE REGISTRATION STATEMENT FILED UNDER SUBSECTION (A) OF THIS SECTION IF THE INFORMATION IS NOT MATERIAL.

(H) (1) ~~THE~~ BEGINNING IN 2015, THE ULTIMATE CONTROLLING PERSON OF EVERY INSURER SUBJECT TO REGISTRATION SHALL FILE AN ANNUAL ENTERPRISE RISK REPORT ON OR BEFORE ~~MAY~~ JULY 1 OF EACH YEAR UNLESS THE COMMISSIONER EXTENDS THE TIME FOR FILING FOR GOOD CAUSE.

(2) THE ENTERPRISE RISK REPORT SHALL, TO THE BEST OF THE ULTIMATE CONTROLLING PERSON'S KNOWLEDGE AND BELIEF, IDENTIFY THE MATERIAL RISKS WITHIN THE INSURANCE HOLDING COMPANY SYSTEM THAT COULD POSE ENTERPRISE RISK TO THE INSURER.

(3) THE ENTERPRISE RISK REPORT SHALL BE FILED WITH THE LEAD STATE COMMISSIONER OF THE INSURANCE HOLDING COMPANY SYSTEM AS DEFINED AND DETERMINED BY THE PROCEDURES IN THE FINANCIAL ANALYSIS HANDBOOK ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(4) THE COMMISSIONER MAY SHARE THE ENTERPRISE RISK REPORT FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITH AN INSURANCE REGULATORY AGENCY IN A STATE THAT HAS LAWS OR REGULATIONS THAT THE COMMISSIONER DETERMINES ARE SUBSTANTIALLY SIMILAR TO § 2–209(G) AND (H) OF THIS ARTICLE, ONLY IF THE AGENCY AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE REPORT.

7–605.

(a) (1) To verify the information required in the insurer's registration statement **AND IN THE ANNUAL ENTERPRISE RISK REPORT,** and any addition or amendment to the registration statement **OR THE ANNUAL ENTERPRISE RISK REPORT**, and in addition to the powers granted under §§ 2–205 through 2–209 of this article relating to the examination of insurers, the Commissioner may order an insurer subject to registration under this subtitle to produce:

(i) those records, books, or papers in the possession of the insurer or its affiliates that are necessary to verify the registration statement; and

(ii) additional information relevant to the registration statement.

(2) The Commissioner shall examine the materials produced under this subsection at the time and place prescribed in §§ 2–205 through 2–209 of this article.

(b) (1) The Commissioner may conduct an examination under subsection (a) of this section only:

(i) if the examination of the insurer under §§ 2–205 through 2–209 of this article is inadequate, or the interests of the policyholders of the insurer are being adversely affected; and

(ii) within 3 years after the filing of the registration statement or the addition or amendment to the registration statement.

(2) In a matter involving fraud, the 3–year limitation period of this subsection does not apply.

(c) (1) **[**If reasonably necessary, the**] THE** Commissioner may retain**, AT THE INSURER'S EXPENSE,** the services of **[**an accounting firm at the insurer's expense to help in an examination under subsection (a) of this section**] ACCOUNTANTS, ATTORNEYS, ACTUARIES, AND OTHER EXPERTS NOT OTHERWISE A PART OF THE COMMISSIONER'S STAFF AS MAY BE REASONABLY NECESSARY TO ASSIST IN THE CONDUCT OF AN EXAMINATION UNDER SUBSECTION (A) OF THIS SECTION**.

(2) **[**An accounting firm**] THE ACCOUNTANTS, ATTORNEYS, ACTUARIES, AND OTHER EXPERTS** retained under this subsection **[**is**] ARE** under the direction and control of the Commissioner and **[**acts**] ACT** only in an advisory capacity.

(d) An insurer that produces materials for an examination under subsection (a) of this section is liable for and shall pay the expense of the examination in accordance with § 2–208 of this article.

(E) WITH REGARD TO AN EXAMINATION UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER HAS THE AUTHORITY PROVIDED UNDER § 2–203 OF THIS ARTICLE.

7–606.

(a) An insurer, a member of an insurance holding company system, or any other person may file with the Commissioner a disclaimer of affiliation with an authorized insurer that fully discloses:

(1) all material relationships and bases for affiliation between the person filing the disclaimer and the authorized insurer; and

(2) the basis for disclaiming the affiliation.

(b) **(1)** **[**After giving**]** **WITHIN 30 DAYS AFTER RECEIPT OF A FILING UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL GIVE** all parties in interest notice and an opportunity to be heard**[**,**]**.

(2) WITHIN 30 DAYS AFTER THE CLOSE OF THE NOTICE PERIOD UNDER PARAGRAPH (1) OF THIS SUBSECTION, the Commissioner may disallow a disclaimer based on specific findings of fact.

[(c)**]** **(3)** **[**An insurer**]** **IF WITHIN 30 DAYS AFTER THE CLOSE OF THE NOTICE PERIOD THE COMMISSIONER HAS NOT DISALLOWED THE DISCLAIMER, THE DISCLAIMING PARTY IS RELIEVED OF ITS DUTY TO REGISTER OR REPORT UNDER THIS SUBTITLE, AND THE INSURER** is relieved of any duty to register or report under this subtitle that arises out of the insurer's relationship with the person filing the disclaimer**[**:

(1) from the date the disclaimer is filed; and

(2) until the Commissioner disallows the disclaimer**]**.

(4) IN THE EVENT OF DISALLOWANCE, THE DISCLAIMING PARTY MAY REQUEST AN ADMINISTRATIVE HEARING, WHICH SHALL BE GRANTED.

7–607.

(A) Failure to file the registration statement **[**or**]**, summary **[**of it**]**, **OR ENTERPRISE RISK REPORT** required by this subtitle in the time specified in this subtitle is a violation of this title.

(B) (1) AN INSURER THAT DOES NOT FILE A REGISTRATION STATEMENT OR SUMMARY REQUIRED UNDER § 7–603(A) OF THIS SUBTITLE~~, OR A PERSON THAT DOES NOT FILE AN ENTERPRISE RISK REPORT REQUIRED BY § 7–603(H) OF THIS SUBTITLE,~~ ON OR BEFORE MAY 1 OR THE DATE THE COMMISSIONER SETS IN ACCORDANCE WITH § 7–602(B) ~~OR § 7–603(H)~~ OF THIS SUBTITLE, MAY BE SUBJECT TO A PENALTY OF UP TO:

(I) $500 FOR EACH DAY FROM MAY 1 THROUGH MAY 10;

(II) $1,000 FOR EACH DAY FROM MAY 11 THROUGH MAY 31; AND

(III) $5,000 FOR EACH DAY AFTER MAY 31.

(2) IN DETERMINING THE AMOUNT OF ANY FINANCIAL PENALTY TO BE IMPOSED UNDER THIS SECTION, THE COMMISSIONER SHALL CONSIDER THE FOLLOWING FACTORS:

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE GOOD FAITH OF THE VIOLATOR;

(III) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

(IV) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND THE INSURANCE INDUSTRY; AND

(V) THE ASSETS OF THE VIOLATOR.

7–608.

WHENEVER IT APPEARS TO THE COMMISSIONER THAT A PERSON HAS COMMITTED A VIOLATION OF § 7–603(H) OF THIS SUBTITLE THAT PREVENTS A FULL UNDERSTANDING OF THE ENTERPRISE RISK TO THE INSURER BY AFFILIATES OR BY THE INSURANCE HOLDING COMPANY SYSTEM, THE VIOLATION MAY SERVE AS AN INDEPENDENT BASIS FOR DISAPPROVING DIVIDENDS OR DISTRIBUTIONS AND PLACING THE INSURER UNDER AN ORDER OF SUPERVISION IN ACCORDANCE WITH § 7–804 OF THIS TITLE.

7–702.

Each transaction within an insurance holding company system to which an insurer subject to registration under Subtitle 6 of this title is a party is subject to the following standards:

(1) the terms shall be fair and reasonable in light of the purposes of this title;

(2) the records of each party shall clearly and accurately disclose the precise nature and details of the transaction, including accounting information necessary to support the reasonableness of the charges or fees to the parties;

(3) after the transaction, including any dividend or distribution to shareholder affiliates, the insurer has assets and surplus as regards policyholders that:

(i) bear a reasonable relation to the insurer's outstanding liabilities; and

(ii) are adequate to meet the insurer's financial needs;

(4) charges or fees for services performed shall be reasonable; **[**and**]**

(5) expenses incurred and payments received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied**; AND**

(6) AGREEMENTS, INCLUDING MANAGEMENT AGREEMENTS, SERVICE CONTRACTS, TAX ALLOCATION AGREEMENTS, OR COST–SHARING AGREEMENTS, SHALL INCLUDE THE PROVISIONS THAT THE COMMISSIONER REQUIRES BY REGULATION.

7–703.

(a) **[**In this section, "material transaction" includes:

(1) an asset change, determined as of the December 31 immediately preceding a transaction involving an insurer, that exceeds in value the lesser of:

(i) 5% of the insurer's surplus as regards policyholders; and

(ii) the net gain from operations of a life insurer, or the net investment income of an insurer other than a life insurer; and

(2) any other transaction specified by regulation to be a material transaction.

(b)**]** **(1)** Before a domestic insurer and another member of the same insurance holding company system enter into any of the transactions specified in subsection **[**(e)**](D)** of this section, **INCLUDING AMENDMENTS OR MODIFICATIONS OF AFFILIATE AGREEMENTS PREVIOUSLY FILED UNDER THIS SECTION,** the domestic insurer shall notify the Commissioner in writing of its intention to enter into the transaction.

(2) THE NOTICE FOR AMENDMENTS OR MODIFICATIONS SHALL INCLUDE THE REASONS FOR THE AMENDMENTS OR MODIFICATIONS AND THE PROJECTED FINANCIAL IMPACT OF THE AMENDMENTS OR MODIFICATIONS ON THE DOMESTIC INSURER.

(3) A DOMESTIC INSURER THAT INTENDS TO TERMINATE AN AGREEMENT OR OTHER TRANSACTION PREVIOUSLY FILED UNDER THIS SECTION SHALL PROVIDE THE COMMISSIONER WITH ~~AT LEAST 30 DAYS' ADVANCE~~ WRITTEN NOTICE ~~OF ITS INTENTION TO TERMINATE~~ WITHIN 30 DAYS AFTER THE TERMINATION OF THE AGREEMENT OR OTHER TRANSACTION.

[(c)**] (B)** The insurer shall notify the Commissioner under subsection **[**(b)**] (A)** of this section:

(1) at least 30 days before the transaction is to be entered into; or

(2) if the Commissioner allows a shorter notice period, within the time that the Commissioner sets.

[(d)**] (C)** A domestic insurer and another member of the same insurance holding company system may enter into**, AMEND, ~~MODIFY,~~ OR ~~TERMINATE~~ MODIFY** a transaction **OR AN AGREEMENT** under this section only if, within the notice period under subsection **[**(c)**] (B)** of this section, the Commissioner does not disapprove the transaction.

[(e)**] (D)** The following transactions are subject to subsections **(A),** (b), **AND** (c)**[**, and (d)**]** of this section:

(1) a sale, purchase, exchange, loan, **OR** extension of credit, **[**guarantee,**]** ~~or investment,~~ if, as of the December 31 immediately preceding the transaction, the amount of the transaction equals or exceeds:

(i) with respect to a life insurer, 3% of the insurer's admitted assets; and

(ii) with respect to an insurer other than a life insurer, the lesser of 3% of the insurer's admitted assets and 25% of surplus as regards policyholders;

(2) a loan or extension of credit by an insurer to a person that is not an affiliate if:

(i) the parties have an agreement or understanding that the proceeds of the transaction, as a whole or in substantial part, are to be used to make loans or extensions of credit to purchase assets of or to make investments in an affiliate of the insurer; and

(ii) as of the December 31 immediately preceding the transaction, the amount of the transaction equals or exceeds:

1. with respect to a life insurer, 3% of the insurer's admitted assets; and

2. with respect to an insurer other than a life insurer, the lesser of 3% of the insurer's admitted assets and 25% of surplus as regards policyholders;

(3) **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION,** a reinsurance agreement, or a modification to a reinsurance agreement, including an agreement that requires as consideration the transfer of assets from an insurer to a person that is not its affiliate, if**[**:

(i) the parties have an agreement or understanding that part of the insurer's assets will be transferred to an affiliate of the insurer; and

(ii) as of the December 31 immediately preceding the transaction, the amount of the reinsurance premium or change in the insurer's liabilities equals or exceeds 5% of the insurer's surplus as regards policyholders;**], AS OF THE DECEMBER 31 IMMEDIATELY PRECEDING THE TRANSACTION, THE AMOUNT OF THE REINSURANCE PREMIUM OR CHANGE IN THE INSURER'S LIABILITIES OR THE PROJECTED REINSURANCE PREMIUM OR CHANGE IN THE INSURER'S LIABILITIES IN ANY OF THE NEXT 3 YEARS EQUALS OR EXCEEDS 5% OF THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS;**

(4) ALL REINSURANCE POOLING AGREEMENTS;

[(4)**](5)** a management agreement, service contract, **TAX ALLOCATION AGREEMENT,** or cost–sharing arrangement; **[**and**]**

(6) SUBJECT TO SUBSECTION (I) OF THIS SECTION, GUARANTEES MADE BY A DOMESTIC INSURER;

(7) DIRECT OR INDIRECT INVESTMENTS IN A PERSON THAT CONTROLS THE INSURER OR AN AFFILIATE OF THE INSURER IN AN AMOUNT THAT, TOGETHER WITH ITS PRESENT HOLDINGS IN THE INVESTMENTS, EXCEEDS 2.5% OF THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS;

(8) NOTWITHSTANDING ITEM (7) OF THIS SUBSECTION, ANY DIRECT OR INDIRECT INVESTMENT IN OR ACQUISITION OF A SUBSIDIARY OF THE INSURER; AND

[(5)**](9)** a material transaction**, AS SPECIFIED BY REGULATION,** that the Commissioner determines may adversely affect the interests of the insurer's policyholders.

[(f)**] (E)** In reviewing transactions under subsection **[**(e)**] (D)** of this section, the Commissioner shall consider whether a transaction:

(1) complies with the standards stated in § 7–702 of this subtitle; or

(2) potentially adversely affects the interests of policyholders.

[(g)**] (F)** (1) A **[**material**]** transaction that does not conform to this section is a violation of this title.

(2) In addition to the sanctions in §§ 7–802, 7–803, 7–805, and 7–807 of this title, the Commissioner may set aside and rescind a **[**material**]** transaction that the Commissioner finds does not conform to this section at the initiative of the Commissioner or otherwise under applicable law.

(3) Within 90 days after the date that the Commissioner receives information about **[**the material transaction**] A TRANSACTION THAT THE COMMISSIONER FINDS DOES NOT CONFORM TO THIS SECTION**, the Commissioner shall give the insurer notice of the proposed action to set aside or rescind the **[**material**]** transaction and an opportunity for a hearing.

[(h)**] (G)** (1) A domestic insurer and another member of the same insurance holding company system may not enter into a transaction that is part of a plan or series of like transactions if the purpose of making separate transactions is to avoid exceeding limitations under this section and the review of the transaction that otherwise would occur.

(2) If the Commissioner determines that separate transactions were entered into during any 12–month period in violation of paragraph (1) of this subsection, the Commissioner may impose any sanction authorized by §§ 7–802, 7–803, 7–805, and 7–807 of this title.

(H) A REINSURANCE AGREEMENT SUBJECT TO SUBSECTION (D)(3) OF THIS SECTION INCLUDES AN AGREEMENT THAT REQUIRES AS CONSIDERATION THE TRANSFER OF ASSETS FROM AN INSURER TO A NONAFFILIATE IF AN AGREEMENT OR UNDERSTANDING EXISTS BETWEEN THE INSURER AND NONAFFILIATE THAT ANY PORTION OF THE ASSETS WILL BE TRANSFERRED TO ONE OF MORE AFFILIATES OF THE INSURER.

(I) (1) A GUARANTEE THAT IS QUANTIFIABLE AS TO AMOUNT IS NOT SUBJECT TO THE NOTICE REQUIREMENTS OF SUBSECTION (D)(6) OF THIS SECTION UNLESS THE GUARANTEE EXCEEDS THE LESSER OF 0.5% OF THE INSURER'S ADMITTED ASSETS OR 10% OF THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS AS OF THE DECEMBER 31 IMMEDIATELY PRECEDING THE GUARANTEE.

(2) ALL GUARANTEES MADE BY A DOMESTIC INSURER THAT ARE NOT QUANTIFIABLE AS TO AMOUNT ARE SUBJECT TO THE NOTICE REQUIREMENTS OF SUBSECTION (D)(6) OF THIS SECTION.

7–802.

(a) In addition to any other penalty provided by law, a person that willfully violates this title or any regulation adopted under this title is subject to a penalty of **[**$1,000**] UP TO $10,000** for the first day of violation and **[**$100**] UP TO $1,000** for each additional day that the violation continues.

(b) **IN DETERMINING THE AMOUNT OF ANY FINANCIAL PENALTY TO BE IMPOSED UNDER THIS SECTION, THE COMMISSIONER SHALL CONSIDER THE FOLLOWING FACTORS:**

(1) THE SERIOUSNESS OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR;

(3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

(4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND THE INSURANCE INDUSTRY; AND

(5) THE ASSETS OF THE VIOLATOR.

(C) Before imposing a penalty under this subsection, the Commissioner:

(1) shall give the person that allegedly committed the violation notice and an opportunity for hearing; and

(2) must find that the person willfully committed the violation.

7–802.1.

(A) A DIRECTOR OR AN OFFICER OF AN INSURANCE HOLDING COMPANY SYSTEM WHO KNOWINGLY PARTICIPATES IN, ASSENTS TO, OR ALLOWS ANY OF THE OFFICERS OR AGENTS OF AN INSURER TO ENGAGE IN TRANSACTIONS OR INVESTMENTS THAT HAVE NOT BEEN PROPERLY REPORTED OR SUBMITTED UNDER SUBTITLES 6 AND 7 OF THIS TITLE, SHALL PAY, IN THE DIRECTOR'S OR OFFICER'S INDIVIDUAL CAPACITY, A CIVIL PENALTY IN ACCORDANCE WITH § 7–802 OF THIS SUBTITLE, AFTER NOTICE AND AN OPPORTUNITY FOR HEARING BEFORE THE COMMISSIONER.

(B) IN DETERMINING THE AMOUNT OF THE CIVIL PENALTY, THE COMMISSIONER SHALL TAKE INTO ACCOUNT THE FACTORS IN § 7–802(B) OF THIS SUBTITLE.

(C) (1) WHENEVER IT APPEARS TO THE COMMISSIONER THAT AN INSURER SUBJECT TO THIS TITLE, OR A DIRECTOR, AN OFFICER, AN EMPLOYEE, OR AN AGENT OF THE INSURER, HAS ENGAGED IN A TRANSACTION OR ENTERED INTO A CONTRACT THAT IS SUBJECT TO SUBTITLE 7 OF THIS TITLE AND THAT WOULD NOT HAVE BEEN APPROVED IF THE APPROVAL HAD BEEN REQUESTED, THE COMMISSIONER MAY ORDER THE INSURER TO CEASE AND DESIST IMMEDIATELY ANY FURTHER ACTIVITY UNDER THAT TRANSACTION OR CONTRACT.

(2) AFTER NOTICE AND AN OPPORTUNITY FOR HEARING, THE COMMISSIONER ALSO MAY ORDER THE INSURER TO VOID ANY CONTRACTS AND RESTORE THE STATUS QUO IF, IN THE COMMISSIONER'S JUDGMENT, THE ACTION IS IN THE BEST INTEREST OF THE POLICYHOLDERS, THE CREDITORS, OR THE PUBLIC.

7–805.

(A) If a person acquires or offers to acquire stock of an insurer or of an insurance holding company in violation of Subtitle 3 of this title, the following persons may petition a court of competent jurisdiction in the State for injunctive and other appropriate relief:

(1) the issuer of the stock;

(2) a stockholder of the issuer;

(3) if the issuer is an insurance holding company, a stockholder of a subsidiary that is an insurer;

(4) a stockholder of the insurer; or

(5) the Commissioner.

(B) WHENEVER IT APPEARS TO THE COMMISSIONER THAT AN INSURER OR A DIRECTOR, AN OFFICER, AN EMPLOYEE, OR AN AGENT OF THE INSURER HAS COMMITTED OR IS ABOUT TO COMMIT A VIOLATION OF THIS TITLE OR ~~OF~~ ANY REGULATION OR ORDER OF THE COMMISSIONER UNDER THIS TITLE, THE COMMISSIONER MAY PETITION A COURT OF COMPETENT JURISDICTION IN THE STATE FOR AN ORDER ENJOINING THE INSURER OR THE DIRECTOR, OFFICER, EMPLOYEE, OR AGENT FROM VIOLATING OR CONTINUING TO VIOLATE THIS TITLE OR ANY REGULATION OR ORDER, AND FOR OTHER EQUITABLE RELIEF

THAT THE NATURE OF THE CASE AND THE INTEREST OF THE INSURER'S POLICYHOLDERS, CREDITORS, AND SHAREHOLDERS OR THE PUBLIC MAY REQUIRE.

(C) (1) NO SECURITY THAT IS THE SUBJECT OF AN AGREEMENT OR ARRANGEMENT REGARDING ACQUISITION, OR THAT IS ACQUIRED OR TO BE ACQUIRED CONTRARY TO THIS TITLE OR ANY REGULATION OR ORDER OF THE COMMISSIONER UNDER THIS TITLE, MAY BE VOTED AT ANY SHAREHOLDER'S MEETING, OR MAY BE COUNTED FOR QUORUM PURPOSES, AND ANY ACTION OF SHAREHOLDERS REQUIRING THE AFFIRMATIVE VOTE OF A PERCENTAGE OF SHARES MAY BE TAKEN AS THOUGH THE SECURITIES WERE NOT ISSUED AND OUTSTANDING.

(2) AN ACTION TAKEN AT THE MEETING MAY NOT BE INVALIDATED BY THE VOTING OF THE SECURITIES, UNLESS THE ACTION WOULD MATERIALLY AFFECT CONTROL OF THE INSURER OR UNLESS THE COURTS OF THIS STATE HAVE SO ORDERED.

(3) IF AN INSURER OR THE COMMISSIONER HAS REASON TO BELIEVE THAT ANY SECURITY OF THE INSURER HAS BEEN OR IS ABOUT TO BE ACQUIRED CONTRARY TO THIS TITLE OR ANY REGULATION OR ORDER OF THE COMMISSIONER UNDER THIS TITLE, THE INSURER OR THE COMMISSIONER MAY PETITION A COURT OF COMPETENT JURISDICTION IN THE STATE:

(I) TO ENJOIN ANY OFFER, REQUEST, INVITATION, AGREEMENT, OR ACQUISITION MADE CONTRARY TO SUBTITLE 4 OF THIS TITLE OR ANY REGULATION OR ORDER OF THE COMMISSIONER UNDER THAT SUBTITLE;

(II) TO ENJOIN THE VOTING OF ANY SECURITY SO ACQUIRED;

(III) TO VOID ANY VOTE OF THE SECURITY ALREADY CAST AT ANY MEETING OF SHAREHOLDERS; AND

(IV) FOR OTHER EQUITABLE RELIEF THAT THE NATURE OF THE CASE AND THE INTEREST OF THE INSURER'S POLICYHOLDERS, CREDITORS, AND SHAREHOLDERS OR THE PUBLIC MAY REQUIRE.

(D) (1) IN ANY CASE WHERE A PERSON HAS ACQUIRED OR IS PROPOSING TO ACQUIRE ANY VOTING SECURITIES IN VIOLATION OF THIS TITLE OR ~~OF~~ ANY REGULATION OR ORDER OF THE COMMISSIONER UNDER THIS TITLE, A COURT OF COMPETENT JURISDICTION IN THE STATE, ON NOTICE THAT THE COURT CONSIDERS APPROPRIATE, ON THE APPLICATION OF THE INSURER OR

THE COMMISSIONER, MAY SEIZE OR SEQUESTER ANY VOTING SECURITIES OF THE INSURER OWNED DIRECTLY OR INDIRECTLY BY THE PERSON AND ISSUE AN ORDER APPROPRIATE TO CARRY OUT THIS TITLE.

(2) NOTWITHSTANDING ANY OTHER LAW, FOR THE PURPOSES OF THIS SECTION, THE LOCATION OF THE OWNERSHIP OF THE SECURITIES OF DOMESTIC INSURERS SHALL BE DEEMED TO BE IN THE STATE.

[7–807.

(a) A person may not willfully:

(1) violate a provision of this title or a regulation adopted by the Commissioner under this title; or

(2) in a document required to be filed under Subtitle 3 or Subtitle 6 of this title:

(i) make an untrue statement of a material fact; or

(ii) omit a material fact that is required in the document or that is necessary to make a statement in the document not misleading.

(b) A person that violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 5 years, or both.**]**

7–807.

(A) (1) WHENEVER IT APPEARS TO THE COMMISSIONER THAT ANY INSURER OR ANY DIRECTOR, OFFICER, EMPLOYEE, OR AGENT OF THE INSURER HAS COMMITTED A WILLFUL VIOLATION OF THIS <u>TITLE OR ANY REGULATION ADOPTED OR ORDER ISSUED UNDER THIS</u> TITLE, THE COMMISSIONER MAY INSTITUTE CRIMINAL PROCEEDINGS IN A COURT OF COMPETENT JURISDICTION AGAINST THE INSURER OR THE RESPONSIBLE DIRECTOR, OFFICER, EMPLOYEE, OR AGENT.

(2) ANY INSURER THAT WILLFULLY VIOLATES THIS <u>TITLE OR ANY REGULATION ADOPTED OR ORDER ISSUED UNDER THIS</u> TITLE MAY BE FINED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(B) (1) ANY OFFICER, DIRECTOR, EMPLOYEE, OR AGENT OF AN INSURANCE HOLDING COMPANY SYSTEM WHO WILLFULLY AND KNOWINGLY SUBSCRIBES TO OR MAKES OR CAUSES TO BE MADE ANY FALSE STATEMENT, REPORT, OR FILING WITH THE INTENT TO DECEIVE THE COMMISSIONER IN THE

PERFORMANCE OF THE COMMISSIONER'S DUTIES UNDER THIS ARTICLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $100,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.

(2) ANY FINES IMPOSED UNDER THIS SECTION SHALL BE PAID BY THE OFFICER, DIRECTOR, EMPLOYEE, OR AGENT IN HIS OR HER INDIVIDUAL CAPACITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

Approved by the Governor, April 9, 2013.

Chapter 116

(House Bill 450)

AN ACT concerning

Howard County – Property Tax Credit – Renovated, Upgraded, or Rehabilitated Property

Ho. Co. 11–13

FOR the purpose of authorizing the governing body of Howard County to provide a property tax credit against the county property tax for certain real property that is renovated, upgraded, or rehabilitated; authorizing the governing body of Howard County to provide, by law, for certain other criteria for the property tax credit; providing for the application of this Act; and generally relating to a county property tax credit for real property in Howard County.

BY adding to
Article – Tax – Property
Section 9–315(d)
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

9–315.

(D) (1) THE GOVERNING BODY OF HOWARD COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY THAT IS:

(I) LOCATED IN DESIGNATED GEOGRAPHIC REGIONS OF THE COUNTY;

(II) OWNED BY SPECIFIED CLASSES OF PERSONS; AND

(III) RENOVATED, UPGRADED, OR REHABILITATED IN ACCORDANCE WITH ELIGIBILITY CRITERIA ESTABLISHED BY THE COUNTY.

(2) THE GOVERNING BODY OF HOWARD COUNTY, BY LAW, MAY:

(I) SPECIFY THE GEOGRAPHIC AREAS OF THE COUNTY, CLASSES OF OWNERS, AND TYPES OF IMPROVEMENTS TO PROPERTY ELIGIBLE FOR THE TAX CREDIT;

(II) ESTABLISH THE AMOUNT AND DURATION OF THE TAX CREDIT;

(III) ESTABLISH ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT; AND

(IV) PROVIDE FOR ANY OTHER PROVISION NECESSARY TO CARRY OUT THE TAX CREDIT UNDER THIS SECTION.

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 117

(House Bill 455)

AN ACT concerning

Howard County – Alcoholic Beverages – Refillable Wine Containers

Ho. Co. 15–13

FOR the purpose of expanding a certain application of law in Howard County to allow certain license holders to sell wine in refillable containers of a certain capacity off the licensed premises; authorizing the Board of License Commissioners to issue a refillable wine container permit; making certain requirements relating to refillable containers, advertising, posting of notice, public hearings, hours of sale, and the refilling of containers applicable to refillable wine containers and holders of refillable wine container permits issued under this Act; making a technical correction; and generally relating to alcoholic beverages in Howard County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 7–101(p–1)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 7–101(p–1)(11)
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.

(p–1) (1) This subsection applies only in Howard County.

(11) (i) The Board of License Commissioners may issue a refillable container permit to a holder of any class of alcoholic beverages license issued by the Board of License Commissioners except a Class C license and a Class GC license:

1. On completion of an application form that the Board provides; and

2. At no cost to the **[**B–SBW**]** license holder.

(ii) A refillable container permit entitles the holder to sell **[**draft**]:**

1. 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**; AND**

2. IF THE HOLDER IS LICENSED TO SELL WINE, WINE FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER WITH A CAPACITY OF NOT LESS THAN ~~32~~ 17 OUNCES AND NOT MORE THAN ~~128~~ 34 OUNCES.

(iii) To be used as a refillable container under subparagraph (ii) 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**] THAT CLEANING** the container is the responsibility of the consumer; and

B. **[**Contents of the container**] IF THE CONTAINER CONTAINS BEER, THAT THE CONTENTS** are perishable and should be refrigerated immediately and consumed within 48 hours after purchase.

(iv) The term of and hours of sale for a refillable container permit issued to an applicant are the same as that of the applicant's alcoholic beverages license.

(v) An applicant who holds an alcoholic beverages license without an off–sale privilege shall meet the same advertising, posting of notice, and public hearing requirements as those for the alcoholic beverages license that the applicant holds.

(vi) A holder of a refillable container permit may refill only a refillable container that was branded by the permit holder.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 118

(House Bill 467)

AN ACT concerning

Allegany County – Roadside Solicitation of Money or Donations – Permit Duration

FOR the purpose of requiring that a roadside solicitation permit issued under a roadside solicitation permit program in Allegany County be effective for a certain period of time; and generally relating to roadside solicitation of money or donations.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–507(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 – Transportation

21–507.

(f) (1) This subsection applies only to Allegany County and Cecil County.

(2) In this subsection, "qualified organization" means a fire company or bona fide religious, fraternal, civic, war veterans', or charitable organization.

(3) Except as provided in paragraph (4) of this subsection, a person may not:

(i) Stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; or

(ii) Cause, encourage, allow, or petition another to stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(4) (i) The governing body of a county or the governing body of a municipal corporation in a county may, by appropriate resolution or ordinance, enact a permit program to allow individuals who are at least 18 years old and representatives of qualified organizations who are at least 18 years old to solicit money or donations

from the occupant of a vehicle by standing in a roadway, median divider, or intersection in the county or municipal corporation.

(ii) If the governing body of a county or of a municipal corporation in the county enacts a resolution or ordinance establishing a permit program authorized by this paragraph, the resolution or ordinance shall:

1. Require an applicant for a permit to submit proof that the individual or qualified organization has a plan for safely soliciting money or donations from the proposed location;

2. Provide that a permit is effective for**:**

A. [a**] A** period of 1 calendar day **IN CECIL COUNTY; OR**

B. A PERIOD NOT TO EXCEED 5 CALENDAR DAYS IN ALLEGANY COUNTY; and

3. Allow an individual or a qualified organization to obtain only one permit in the county or municipal corporation per calendar year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, April 9, 2013.

Chapter 119

(House Bill 472)

AN ACT concerning

Local Government Article

FOR the purpose of adding a new article to the Annotated Code of Maryland, to be designated and known as the "Local Government Article", to revise, restate, and recodify the laws of the State relating to employees of local governments, regulation of lead paint in residential property, public recreation and parks established by counties and municipalities, the authority of counties and municipalities to limit competition in various areas and grant franchises, the authority of certain governmental entities to participate in a certain manner in federal projects, the authority for certain types of cooperation among political subdivisions, the authority of counties and municipalities to create hospitals, certain related facilities, and citizens nursing home boards and to contribute to

the cost of hospitals and related facilities, the authority of counties and municipalities to establish certain clean energy loan programs, the authority of certain counties to regulate certain tobacco products, the designation of certain resident agents by certain governmental entities, the publication of certain regulations by certain governmental units, civil penalties that may be imposed by certain governmental entities, outdoor advertising, compliance with the Workers' Compensation Act by counties and municipalities, the creation of legislative districts, the creation of affordable housing programs, street lighting equipment owned by counties and municipalities, municipal charters and the establishment of home rule by municipalities, incorporation of municipalities, annexation by municipalities, the merger of municipalities, the authority of municipalities to pass ordinances for certain purposes, agreements between municipalities and private communities, the establishment of land bank authorities by municipalities, contract claims against local governments, contracts and competitive bidding, penalties and procedures for violations of municipal ordinances and resolutions, administrative requirements imposed on counties, the establishment of and requirements for charter home rule, the establishment of and requirements for code home rule, the St. Mary's County Open Meetings Act, the Express Powers Act for charter and code counties, the authority of code counties to enforce civil infractions, the authority of code counties to impose a juvenile curfew, the authority of code counties to provide for water and sewerage services, the general powers of counties, including providing for officers and employees, establishing pensions and insurance benefits for employees, acquiring and transferring property, establishing, controlling, and maintaining public roads, bridges, and canals, creating certain watershed projects, providing for public safety, establishing community, social, and recreational services, and entering into agreements for certain development rights, the authority of counties to regulate animals, tourism and entertainment, transient vendors, itinerant or door–to–door salesmen, nuisances and public health, junkyards, agricultural and seafood industries, certain environmental issues, waterways and certain activities on the shores of waterways, building codes, housing codes, plumbing codes, electrical codes, and rent control, financial requirements for local jurisdictions, county treasurers, a uniform system of financial reporting for local jurisdictions, the use of certain taxing and borrowing authority by counties and municipalities, the provision of certain grants to counties, investments made by local governments, economic development in certain political subdivisions, public debt of local jurisdictions, the authority of certain local jurisdictions to establish taxes and development impact fees for certain purposes, special taxing districts, regional councils of governments, public watershed associations, public drainage associations, drainage districts, salary study commissions in Allegany County and Washington County, the St. Mary's County Human Relations Commission, and the Baltimore City Police Department Death Relief Fund; revising, restating, and recodifying in certain other articles of the Annotated Code certain provisions relating to the consumption of alcoholic beverages in Charles County and St. Mary's County, the licensing of amusement devices in Washington County and Worcester County, the merit system employees of the Sheriffs'

offices in Dorchester County, Queen Anne's County, and Somerset County, the authority of the County Council of Talbot County relating to Sheriffs' uniforms, immunity of certain local government officials, contract claims against counties and municipalities, the sale of electric plants or gas plants by municipalities, charges for water service in Garrett County, the purchasing authority of local governmental entities, the exemption from taxation of certain State bonds, the prohibition on the construction of certain toll facilities in certain counties, and the prohibition on building a bridge over a navigable river except under certain circumstances; adding certain references to rights of and requirements for county board of education employees; repealing certain obsolete provisions; making certain conforming changes; transferring certain obsolete provisions to the Session Laws; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interest, licenses, registrations, certifications, and permits; authorizing the publisher of the Annotated Code to make certain corrections in a certain manner; and generally relating to the laws concerning local government.

BY repealing
Article 19 – Comptroller
In its entirety
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 23 – Miscellaneous Companies
Section 140 through 143 and the subheading "Companies for the Erection of Bridges or Construction of Canals"; and 181 through 183 and the subheading "Municipal Corporations"
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 23A – Corporations – Municipal
In its entirety
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 24 – Political Subdivisions – Miscellaneous Provisions
In its entirety
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 25 – County Commissioners

Section 1, 1–1, 1A, 2, 2A, 2B, 3, 3A, 3C, 3D, 4, 5, 5A, 5C, 5D, 5E, 8, 9, 9A, 9B, 9D, 9E, 9F, 9G, 9H, 9–I, 9J, 9K, 9L, 10, 10A, 10B, 10C, 10D, 10D–1, 10E, 10F, 10G, 10H, 10–I, 10J, 10J–1, 10K, 11, 11A, 11B, 11C, 11C–1, 11D, 12 through 14, 14A, 15 through 23, 25, 26, 26A, 27, 27A, and 29 through 32 and the subtitle "General Provisions"; 32A and the subtitle "County Codes"; 33 and the subtitle "Bonds of County Officials"; 34 through 37, 37A, 37B, and 38 through 49 and the subtitle "Bridges"; 51 and 51A and the subtitle "County Treasurers"; 52 through 55, 57 through 60, 60A, 61 through 70, 70A, 71 through 76, 78 through 82, 82A, 84 through 121, 121A, 121B, 121C, 121D, 121E, 121F, 121G, and 121H and the subtitle "Draining Lands"; 122A, 122B, and 122C and the subtitle "Junkyards"; 122D and 122E and the subtitle "Outdoor Advertising"; 123 through 127 and the subtitle "Meridian Line"; 135 through 137, 137A, 138, 138A, 139 through 154, 154A, 155, 155A, and 155B and the subtitle "Public Roads"; 156 and 157 and the subtitle "Public Landings"; 158 and 159 and the subtitle "Schools"; 160 and the subtitle "Farmers' Cooperative Demonstration Work"; 161 through 163, 163A, and 164 through 167 and the subtitle "Erosion"; 167A, 167B, 167C, 167D, 167E, and 167F and the subtitle "Shore Erosion Control Districts"; 168 and the subtitle "Conservation of Water"; 169 through 200, 200A, 200B, 201 through 216, 216A, 217, 217.1, and 218 and the subtitle "Public Watershed Associations"; 219 and the subtitle "Assistance to Other Political Subdivisions"; 220 and the subtitle "Grant to Municipalities in Lieu of Shares of Tax"; 221, 221A, and 221B and the subtitle "Frederick County"; 222 through 230 and the subtitle "Public Recreation and Parks"; 231 and the subtitle "Licenses and Permits"; 232 through 234, 234A, 235, 236, 236A, 236B, 236C, 236D, 236E, 236F, 237, and 238 and the subtitle "Miscellaneous Provisions"; 252 through 255 and the subtitle "Hospitals and Reception Centers of Political Subdivisions"; 256 and the subtitle "Regulation of Tattoo Artist and Body Piercing Services"; and the article designation "Article 25 – County Commissioners"

Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 25A – Chartered Counties of Maryland
In its entirety
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 25B – Home Rule for Code Counties
In its entirety
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing

Article 26 – Miscellaneous Governmental Entities
In its entirety
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 31 – Debt – Public
In its entirety
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article 41 – Governor – Executive and Administrative Departments
Section 14–301 through 14–303, 14–304(a) and (b), and 14–305 through 14–312, the title "Title 14. Local Economic and Community Development Programs", and the subtitle "Subtitle 3. Parking Authorities"; 14–701 and 14–702 and the subtitle "Subtitle 7. Ocean City Convention Hall"; and 18–201
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article 49B – Human Relations Commission
In its entirety
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article 75 – Pleadings, Practice and Process at Law
In its entirety
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article 78A – Public Works
In its entirety
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article 95 – Treasurer
In its entirety
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing
Article 96½ – Veterans

In its entirety
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding
New Article – Local Government
Section 1–101 through 30–108 and the various titles
Annotated Code of Maryland

BY repealing and reenacting, with amendments,
Article 1 – Rules of Interpretation
Section 25
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 18–105
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Business Regulation
Section 17–441 through 17–446 to be under the new part "Part V. Licensing Amusement Devices – Washington County"; and 17–449 through 17–454 to be under the new part "Part VI. Licensing of Amusement Devices – Worcester County"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 2–309(k)(4), (s)(3), (u)(4), and (v)(6); 5–509; and 5–5A–01 and 5–5A–02 to be under the new subtitle "Subtitle 5A. Contract Claims Against Local Governments"
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–507 and 5–508
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing
Article – Courts and Judicial Proceedings

Section 5–509, 5–510, and 5–511
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 4–128 and 4–129
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Public Utilities
Section 7–106 and 7–107
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – State Finance and Procurement
Section 4–316, 8–131.2, and 8–222
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to
Article – Transportation
Section 4–407 and 8–609.2
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 25 – County Commissioners
Section 6 and 50A
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 41 – Governor – Executive and Administrative Departments
Section 14–304(c)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the following Section(s) of the Annotated Code of Maryland be repealed:

Article 19 – Comptroller
In its entirety

Article 23 – Miscellaneous Companies
Section 140 through 143 and the subheading "Companies for the Erection of Bridges or Construction of Canals"; and 181 through 183 and the subheading "Municipal Corporations"

Article 23A – Corporations– Municipal
In its entirety

Article 24 – Political Subdivisions – Miscellaneous Provisions
In its entirety

Article 25 – County Commissioners
Section 1, 1–1, 1A, 2, 2A, 2B, 3, 3A, 3C, 3D, 4, 5, 5A, 5C, 5D, 5E, 8, 9, 9A, 9B, 9D, 9E, 9F, 9G, 9H, 9–I, 9J, 9K, 9L, 10, 10A, 10B, 10C, 10D, 10D–1, 10E, 10F, 10G, 10H, 10–I, 10J, 10J–1, 10K, 11, 11A, 11B, 11C, 11C–1, 11D, 12 through 14, 14A, 15 through 23, 25, 26, 26A, 27, 27A, and 29 through 32 and the subtitle "General Provisions"; 32A and the subtitle "County Codes"; 33 and the subtitle "Bonds of County Officials"; 34 through 37, 37A, 37B, and 38 through 49 and the subtitle "Bridges"; 51 and 51A and the subtitle "County Treasurers"; 52 through 55, 57 through 60, 60A, 61 through 70, 70A, 71 through 76, 78 through 82, 82A, 84 through 121, 121A, 121B, 121C, 121D, 121E, 121F, 121G, and 121H and the subtitle "Draining Lands"; 122A, 122B, and 122C and the subtitle "Junkyards"; 122D and 122E and the subtitle "Outdoor Advertising"; 123 through 127 and the subtitle "Meridian Line"; 135 through 137, 137A, 138, 138A, 139 through 154, 154A, 155, 155A, and 155B and the subtitle "Public Roads"; 156 and 157 and the subtitle "Public Landings"; 158 and 159 and the subtitle "Schools"; 160 and the subtitle "Farmers' Cooperative Demonstration Work"; 161 through 163, 163A, and 164 through 167 and the subtitle "Erosion"; 167A, 167B, 167C, 167D, 167E, and 167F and the subtitle "Shore Erosion Control Districts"; 168 and the subtitle "Conservation of Water"; 169 through 200, 200A, 200B, 201 through 216, 216A, 217, 217.1, and 218 and the subtitle "Public Watershed Associations"; 219 and the subtitle "Assistance to Other Political Subdivisions"; 220 and the subtitle "Grant to Municipalities in Lieu of Shares of Tax"; 221, 221A, and 221B and the subtitle "Frederick County"; 222 through 230 and the subtitle "Public Recreation and Parks"; 231 and the subtitle "Licenses and Permits"; 232 through 234, 234A, 235, 236, 236A, 236B, 236C, 236D, 236E, 236F, 237, and 238 and the subtitle "Miscellaneous Provisions"; 252 through 255 and the subtitle "Hospitals and Reception Centers of Political Subdivisions"; and 256 and the subtitle "Regulation of Tattoo Artist and Body Piercing Services"

Article 25A – Chartered Counties of Maryland
In its entirety

Article 25B – Home Rule for Code Counties
In its entirety

Article 26 – Miscellaneous Governmental Entities
In its entirety

Article 31 – Debt – Public
In its entirety

Article 41 – Governor – Executive and Administrative Departments
Section 14–301 through 14–303, 14–304(a) and (b), and 14–305 through 14–312 the title "Title 14. Local Economic and Community Development Programs", and the subtitle "Subtitle 3. Parking Authorities"; 14–701 and 14–702 and the subtitle "Subtitle 7. Ocean City Convention Hall"; and 18–201

Article 49B – Human Relations Commission
In its entirety

Article 75 – Pleadings, Practice, and Process at Law
In its entirety

Article 78A – Public Works
In its entirety

Article 95 – Treasurer
In its entirety

Article 96½ –Veterans
In its entirety

Article – Courts and Judicial Proceedings
Section 5–509, 5–510, and 5–511

The article designation "Article 25 – County Commissioners"

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

ARTICLE – LOCAL GOVERNMENT

DIVISION I. DEFINITIONS; GENERAL PROVISIONS.

TITLE 1. DEFINITIONS; GENERAL PROVISIONS.

SUBTITLE 1. DEFINITIONS.

1–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language revised without substantive change from former Art. 24, § 1–101(a) and Art. 25, § 1(a).

The former phrase "[u]nless the context clearly requires otherwise" is deleted as surplusage.

(B) CHARTER COUNTY.

(1) "CHARTER COUNTY" MEANS A COUNTY THAT HAS ADOPTED CHARTER HOME RULE UNDER ARTICLE XI–A OF THE MARYLAND CONSTITUTION.

(2) "CHARTER COUNTY" DOES NOT INCLUDE BALTIMORE CITY.

REVISOR'S NOTE: Paragraph (1) of this subsection is new language derived without substantive change from former Art. 25, § 1(b).

Paragraph (2) of this subsection is new language added for clarity because the charter of Baltimore City is also adopted under Article XI–A of the Maryland Constitution and, since Baltimore City is included in the definition of a county, under paragraph (1) of this subsection, Baltimore City would be considered a charter county; however, most of the references to a charter county in this article are not intended to apply to Baltimore City. Baltimore City is specifically referenced wherever a reference in this article to a charter county is intended to apply to Baltimore City.

The reference to a county that has adopted "charter" home rule is added for clarity.

Throughout this article, the defined term "charter county" is substituted for the former references to "chartered county", "county that has adopted a charter under Article XI–A of the Maryland Constitution", and other variations of those references for consistency.

Defined term: "County" § 1–101

(C) CODE COUNTY.

"CODE COUNTY" MEANS A COUNTY THAT HAS ADOPTED CODE HOME RULE UNDER ARTICLE XI–F OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 25, § 1(c) and Art. 25B, § 1(a).

The reference to "code" home rule is added for clarity.

The former parenthetical phrase "as defined in Article XI–F of the Maryland Constitution, § 1" is deleted as unnecessary in light of the reference to adopting code home rule "under Article XI–F of the Maryland Constitution".

The former reference to a code county "not [being] a charter county under Article XI–A of the Maryland Constitution" is deleted as unnecessary in light of the reference to adopting home rule "under Article XI–F of the Maryland Constitution".

The former reference to the "optional powers of" home rule is deleted as unnecessary in light of Article XI–F, § 1 of the Maryland Constitution, which describes the powers as "optional".

The former reference to the powers of home rule under "this article [former Article 25B]" is deleted as unnecessary because those powers would be encompassed by the powers under Article XI–F of the Maryland Constitution.

Defined term: "County" § 1–101

(D) COMMISSION COUNTY.

"COMMISSION COUNTY" MEANS A COUNTY THAT HAS NOT ADOPTED CHARTER OR CODE HOME RULE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 25, § 1(d).

The reference to a county that "has not adopted charter or code home rule" is substituted for the former reference to a county that "has not adopted home rule" for clarity.

Throughout this article, the defined term "commission county" is substituted for the former references to "commissioner county", "county

commissioner county", and other variations of those references for consistency.

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

(E) COUNTY.

"COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 24, § 1–101(b).

Defined term: "State" § 1–101

(F) GOVERNING BODY.

"GOVERNING BODY" MEANS:

(1) FOR BALTIMORE CITY, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY;

(2) FOR A CHARTER COUNTY:

(I) THAT DOES NOT HAVE AN ELECTED CHIEF EXECUTIVE OFFICER, THE COUNTY COUNCIL; OR

(II) THAT HAS AN ELECTED CHIEF EXECUTIVE OFFICER, THE COUNTY COUNCIL OR THE COUNTY COUNCIL AND THE COUNTY EXECUTIVE, AS PROVIDED BY THE COUNTY CHARTER;

(3) FOR A CODE COUNTY, THE COUNTY COMMISSIONERS;

(4) FOR A COMMISSION COUNTY, THE COUNTY COMMISSIONERS; AND

(5) FOR A MUNICIPALITY, THE BODY PROVIDED UNDER THE MUNICIPAL CHARTER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 25, § 1(e).

In item (2) of this subsection, the references to a charter county that "does not have an elected chief executive officer" and that "has an elected chief executive officer" are added for clarity.

In item (3) of this subsection, the former phrase "as provided by local law" is deleted as surplusage.

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

(G) MUNICIPALITY.

"MUNICIPALITY" MEANS A MUNICIPALITY THAT IS ORGANIZED UNDER ARTICLE XI–E OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 23A, § 9(a).

In this section and throughout this article, the defined term "municipality" is substituted for the former references to "municipal corporation", "city", "town", "village", and other variations of those references for consistency.

The reference to a municipality "that is organized under" Article XI–E is substituted for the former reference to a municipality "now or hereafter created under any general or special law of this State for general governmental purposes, which are subject to the provisions of" Article XI–E for brevity.

The former reference to "possess[ing] legislative, administrative, and police powers for the general exercise of municipal powers" is deleted as surplusage. Similarly, the former reference to "carry[ing] on such functions through a set of elected or other officials" is deleted.

The second sentence of former Art. 23A, § 9(a), which listed types of entities not included in the definition of "municipality", is deleted because the entities listed are not organized under Article XI–E of the Maryland Constitution and therefore could not be construed as being included in the definition of municipality. Similarly, former Art. 23A, § 9(b) and the fifth sentence of (a), which listed specific entities not included in the definition of "municipality", are deleted in light of the fact that the entities listed are not organized under Article XI–E of the Maryland

Constitution and therefore could not be construed as being included in the definition of municipality.

(H) PERSON.

"PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 1–101(d).

The term conforms to the same term defined in other recently revised articles of the Code. *See e.g.*, EC § 1–101(d), IN § 1–101(dd), CS § 1–101(l), CP § 1–101(l), and PS § 1–101(c).

The definition of "person" in this subsection does not include a governmental entity or unit.

As to the term "personal representative", *see* Art. 1, § 5.

(I) STATE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, "STATE" MEANS:

(I) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE UNITED STATES; OR

(II) THE DISTRICT OF COLUMBIA.

(2) WHEN CAPITALIZED, "STATE" MEANS MARYLAND.

REVISOR'S NOTE: Paragraph (1) of this subsection is new language derived without substantive change from former Art. 24, § 1–101(e). Paragraph (2) of this subsection is new language added to provide an express definition of the term "State".

The term conforms to the same term defined in other recently revised articles of the Code. *See e.g.*, EC § 1–101(g) and PU § 16–101(k).

(J) TAX COLLECTOR.

"TAX COLLECTOR" MEANS THE PERSON OR GOVERNMENTAL UNIT RESPONSIBLE FOR COLLECTING A TAX.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 1–101(f).

Defined term: "Person" § 1–101

GENERAL REVISOR'S NOTE TO SECTION

Former Art. 24, § 1–101(c), which defined "includes" or "including", is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

SUBTITLE 2. LOCAL PERSONNEL.

1–201. RESIDENCY REQUIREMENTS.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO:

(1) AN ELECTED OFFICIAL;

(2) THE HEAD OF A UNIT OF A COUNTY OR MUNICIPALITY WHO REPORTS DIRECTLY TO:

(I) THE CHIEF ADMINISTRATIVE OFFICER OF THE COUNTY OR MUNICIPALITY;

(II) AN ELECTED EXECUTIVE; OR

(III) THE GOVERNING BODY OF THE COUNTY OR MUNICIPALITY; OR

(3) THE CHIEF ADMINISTRATIVE OFFICER OF THE COUNTY OR MUNICIPALITY.

(B) IN GENERAL.

(1) A COUNTY OR MUNICIPALITY MAY NOT REQUIRE AN EMPLOYEE TO RESIDE IN THE STATE, COUNTY, OR MUNICIPALITY OR WITHIN A SPECIFIED DISTANCE OF THE STATE, COUNTY, OR MUNICIPALITY AS A CONDITION OF EMPLOYMENT.

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, WHEN MAKING EMPLOYMENT, PROMOTION, DEMOTION, LAYOFF, AND DISCHARGE

DECISIONS, A COUNTY OR MUNICIPALITY MAY NOT DISCRIMINATE BASED ON AN INDIVIDUAL'S PLACE OF RESIDENCE.

(C) EMPLOYMENT AND PROMOTION DECISIONS.

A COUNTY OR MUNICIPALITY MAY GRANT A RESIDENT OF THE STATE, COUNTY, OR MUNICIPALITY ADDITIONAL POINTS OR CREDITS IN EMPLOYMENT OR PROMOTION DECISIONS IF THE POINTS OR CREDITS ARE PROVIDED IN ACCORDANCE WITH A MERIT SYSTEM ESTABLISHED BY THE COUNTY OR MUNICIPALITY BY LOCAL LAW OR ORDINANCE.

(D) REGIONAL AGENCIES.

AN AGENCY CREATED UNDER STATE LAW THAT PROVIDES GOVERNMENTAL SERVICES TO MORE THAN ONE COUNTY OR MUNICIPALITY MAY NOT REQUIRE AN EMPLOYEE, AS A CONDITION OF EMPLOYMENT, TO RESIDE IN THE STATE OR A COUNTY OR MUNICIPALITY OR WITHIN A SPECIFIED DISTANCE OF THE STATE, A COUNTY, OR A MUNICIPALITY FOR WHICH THE AGENCY PROVIDES GOVERNMENTAL SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 1–107.

Subsection (a) of this section is revised as a scope provision rather than as definitions of "administrator", "department head", and "employee" because the former definitions served only to delineate who is covered by this section.

In subsection (b)(2) of this section, the reference to discrimination "based on an individual's place of residence" is substituted for the former reference to discrimination "between residents and other citizens of the State or any other state" for brevity and clarity.

In subsection (d) of this section, the references to a "county or municipality" are substituted for the former references to a "political subdivision" for clarity. The term "political subdivision" is not defined for this section, but the only political subdivisions to which this section applies are counties and municipalities.

Also in subsection (d) of this section, the former reference to a "regional" agency is deleted as unnecessary in light of the reference to an agency that provides services to "more than one county or municipality".

Defined terms: "County" § 1–101
"Governing body" § 1–101

"Municipality" § 1–101
"State" § 1–101

1–202. IDENTIFICATION CARDS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO THE FOLLOWING GOVERNMENTAL ENTITIES:

(1) COUNTIES;

(2) MUNICIPALITIES;

(3) SPECIAL TAXING DISTRICTS; AND

(4) REGIONAL GOVERNMENTAL ENTITIES CREATED BY STATE LAW THAT PROVIDE SERVICES IN MORE THAN ONE COUNTY.

(B) SOCIAL SECURITY NUMBERS.

A GOVERNMENTAL ENTITY MAY NOT ISSUE AN IDENTIFICATION CARD ON WHICH AN EMPLOYEE'S SOCIAL SECURITY NUMBER IS VISIBLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 1–109.

Subsection (a) of this section is revised as a scope provision rather than a definition of "local government" because the former definition served only to delineate the types of entities that are covered by this section.

In subsection (b) of this section, the reference to "issu[ing] an identification card on which" a Social Security number "is visible" is substituted for the former reference to "print[ing] or hav[ing] printed … on any type of identification card" in order to update the provision to encompass new technologies and to reflect that the source law is not intended to prohibit Social Security numbers from being imbedded in an identification card.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–203. REEMPLOYMENT OF RETURNING VETERANS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO THE FOLLOWING GOVERNMENTAL ENTITIES:

(1) COUNTIES;

(2) MUNICIPALITIES;

(3) BICOUNTY AGENCIES;

(4) COUNTY BOARDS OF EDUCATION;

(5) PUBLIC CORPORATIONS;

(6) SPECIAL TAXING DISTRICTS; AND

(7) OTHER POLITICAL SUBDIVISIONS OF THE STATE.

(B) RIGHT TO REEMPLOYMENT.

EACH GOVERNMENTAL ENTITY SHALL GIVE ITS EMPLOYEES WHO RETURN FROM MILITARY SERVICE IN THE ARMED FORCES OF THE UNITED STATES THE SAME REEMPLOYMENT RIGHTS AS PROVIDED FOR STATE EMPLOYEES UNDER TITLE 2, SUBTITLE 7 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 10–101.

Subsection (a) of this section is revised as a scope provision rather than a definition of "political subdivision" because the former definition served only to delineate the types of entities that are covered by this section.

In subsection (b) of this section, the reference to military service "in the armed forces of the United States" is added for clarity and to conform with the terminology used in Title 2, Subtitle 7 of the State Personnel and Pensions Article.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–204. CREDITS FOR VETERANS.

(A) IN GENERAL.

IF A MUNICIPALITY, COUNTY, OR OTHER POLITICAL SUBDIVISION OF THE STATE MAKES APPOINTMENTS TO GOVERNMENT POSITIONS UNDER A CIVIL SERVICE OR MERIT SYSTEM LAW OR ORDINANCE, THE UNIT THAT PROVIDES ELIGIBILITY LISTS FOR APPOINTMENTS SHALL ADOPT RULES OR REGULATIONS TO GRANT SPECIAL CREDIT TO HONORABLY DISCHARGED VETERANS OF THE ARMED FORCES OF THE UNITED STATES WHO HAVE BEEN RESIDENTS OF THE STATE FOR AT LEAST 5 YEARS IMMEDIATELY PRECEDING THE DATE ON WHICH THE VETERAN TAKES A MERIT SYSTEM EXAMINATION.

(B) NATURE AND EXTENT OF CREDITS.

(1) THE UNIT MAY DETERMINE THE NATURE AND EXTENT OF THE SPECIAL CREDIT GRANTED TO VETERANS.

(2) THE UNIT MAY GRANT A GREATER CREDIT TO VETERANS WITH A DISABILITY THAN TO VETERANS WHO DO NOT HAVE A DISABILITY.

(C) SPOUSES.

THE CREDIT GRANTED TO A VETERAN UNDER THIS SECTION MAY BE EXTENDED TO:

(1) THE SPOUSE OF A VETERAN IF THE VETERAN IS UNABLE TO QUALIFY FOR MERIT SYSTEM APPOINTMENT BECAUSE OF A DISABILITY; AND

(2) THE UNMARRIED SURVIVING SPOUSE OF A DECEASED VETERAN.

(D) EXEMPTIONS ALLOWED.

THE UNIT MAY EXEMPT WAR VETERANS UNDER THE AGE OF 55 YEARS FROM ANY AGE LIMITATION OR REQUIREMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 96 1/2, § 48.

Throughout this section, the references to "unit" are substituted for the former references to "commission or board". The word "unit" is used as the general term for an entity in the government because it is inclusive enough to include the other entities.

Also throughout this section, the former references to "credits" are deleted in light of the references to "credit" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a) of this section, the reference to appointments to "government positions" is substituted for the former reference to appointments to "positions in the municipal or county government" for brevity.

Also in subsection (a) of this section, the reference to the "armed forces" of the United States is substituted for the former reference to the "military and naval services" to conform to other similar provisions of the Code.

In the introductory language of subsection (c) of this section, the former reference to a "preference" is deleted as included in the reference to a "credit".

In subsection (c)(1) of this section, the reference to the "spouse of a veteran [who] is" unable to qualify for merit system appointment is substituted for the former reference to the "spouses of such veterans as have themselves been" unable to qualify for merit system appointment for clarity.

In subsection (d) of this section, the former reference to a "civil service" unit is deleted for consistency within this section.

Also in subsection (d) of this section, the former reference to "rules and regulations" is deleted as unnecessary in light of the reference to adopted "rules or regulations" in subsection (a) of this section.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section, the reference to "merit system examination" appears to be obsolete.

The Local Government Article Review Committee also notes, for consideration by the General Assembly, that subsection (d) of this section may conflict with Title 20, Subtitle 6 of the State Government Article, which relates to employment discrimination.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–205. DIRECT DEPOSIT OF EMPLOYEE WAGES.

(A) IN GENERAL.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR MUNICIPALITY MAY:

(I) PAY THE WAGE OF AN EMPLOYEE BY DIRECT DEPOSIT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION; AND

(II) REQUIRE AN EMPLOYEE TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT AS A CONDITION OF EMPLOYMENT.

(2) A COUNTY OR MUNICIPALITY MAY NOT REQUIRE THE PAYMENT OF WAGES BY DIRECT DEPOSIT FOR AN EMPLOYEE:

(I) WHO WAS HIRED BEFORE OCTOBER 1, 2011, UNLESS THE COUNTY OR MUNICIPALITY BEFORE OCTOBER 1, 2011, REQUIRED, BY LOCAL LAW, REGULATION, OR COLLECTIVE BARGAINING AGREEMENT, THE PAYMENT OF WAGES BY DIRECT DEPOSIT;

(II) WHOSE EMPLOYMENT IS NOT CONDITIONED ON THE EMPLOYEE RECEIVING THE PAYMENT OF WAGES BY DIRECT DEPOSIT; OR

(III) 1. WHO DOES NOT HAVE A PERSONAL BANK ACCOUNT; AND

2. WHO INFORMS THE EMPLOYEE'S EMPLOYER THAT THE EMPLOYEE WISHES TO OPT OUT OF DIRECT DEPOSIT.

(3) IF A COUNTY OR MUNICIPALITY ELECTS TO PAY WAGES BY DIRECT DEPOSIT, AN EMPLOYEE WHO IS NOT REQUIRED TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT MAY ELECT TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

(B) COUNTY RESPONSIBILITIES.

IF A COUNTY OR MUNICIPALITY ELECTS TO PAY THE WAGES OF ITS EMPLOYEES BY DIRECT DEPOSIT, THE COUNTY OR MUNICIPALITY SHALL:

(1) PROVIDE AN EMPLOYEE WHO IS REQUIRED OR ELECTS TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT WITH AN ELECTRONIC FUND TRANSFER AUTHORIZATION FORM;

(2) DEPOSIT THE WAGE OF AN EMPLOYEE INTO A PERSONAL BANK ACCOUNT SELECTED BY THE EMPLOYEE ON THE ELECTRONIC FUND TRANSFER AUTHORIZATION FORM; AND

(3) EACH TIME THE COUNTY OR MUNICIPALITY PAYS THE WAGE OF AN EMPLOYEE BY DIRECT DEPOSIT, PROVIDE THE EMPLOYEE WITH A DIRECT DEPOSIT STATEMENT THAT INCLUDES:

(I) THE TOTAL AMOUNT OF THE WAGE;

(II) ANY AMOUNT DEDUCTED FROM THE WAGE; AND

(III) THE AMOUNT OF THE WAGE DIRECTLY DEPOSITED INTO THE PERSONAL BANK ACCOUNT SELECTED BY THE EMPLOYEE.

(C) EMPLOYEE RESPONSIBILITIES.

(1) AN EMPLOYEE WHO IS REQUIRED OR ELECTS TO RECEIVE THE PAYMENT OF WAGES BY DIRECT DEPOSIT SHALL:

(I) COMPLETE AND SUBMIT TO THE COUNTY OR MUNICIPALITY THE ELECTRONIC FUND TRANSFER AUTHORIZATION FORM PROVIDED TO THE EMPLOYEE UNDER SUBSECTION (B) OF THIS SECTION; AND

(II) SELECT A PERSONAL BANK ACCOUNT FOR THE DIRECT DEPOSIT OF THE EMPLOYEE'S WAGES THAT IS AT A FINANCIAL INSTITUTION THAT PARTICIPATES IN THE AUTOMATED CLEARINGHOUSE NETWORK.

(2) SUBJECT TO PARAGRAPH (1)(II) OF THIS SUBSECTION, AN EMPLOYEE MAY CHANGE THE PERSONAL BANK ACCOUNT OR THE FINANCIAL INSTITUTION DESIGNATED ON AN ELECTRONIC FUND TRANSFER AUTHORIZATION FORM BY COMPLETING AND SUBMITTING TO THE COUNTY OR MUNICIPALITY A NEW ELECTRONIC FUND TRANSFER AUTHORIZATION FORM.

REVISOR'S NOTE: This section formerly was Art. 24, § 1–112.

The only changes are in style.

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

SUBTITLE 3. POLITICAL ACTIVITIES OF EMPLOYEES.

1–301. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO THE FOLLOWING GOVERNMENTAL ENTITIES:

(1) COUNTIES;

(2) MUNICIPALITIES;

(3) BICOUNTY OR MULTICOUNTY AGENCIES;

(4) COUNTY BOARDS OF EDUCATION;

(5) PUBLIC AUTHORITIES;

(6) SPECIAL TAXING DISTRICTS; AND

(7) OTHER PUBLIC ENTITIES WHOSE EMPLOYEES ARE NOT COVERED BY § 2–304 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 13–101.

This section is revised as a scope provision rather than a definition of "local entity" because the former definition served only to delineate the types of entities that are covered by this subtitle.

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

1–302. PUBLIC POLICY.

EMPLOYMENT BY A GOVERNMENTAL ENTITY DOES NOT AFFECT ANY RIGHT OR OBLIGATION OF A CITIZEN UNDER THE UNITED STATES CONSTITUTION, THE MARYLAND CONSTITUTION, OR FEDERAL OR STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 13–102.

Defined term: "State" § 1–101

1–303. EMPLOYEE RIGHTS.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN EMPLOYEE OF A GOVERNMENTAL ENTITY:

(1) MAY FREELY PARTICIPATE IN ANY POLITICAL ACTIVITY AND EXPRESS ANY POLITICAL OPINION; AND

(2) MAY NOT BE REQUIRED TO PROVIDE A POLITICAL SERVICE.

REVISOR'S NOTE: This section formerly was Art. 24, § 13–103.

The only changes are in style.

1–304. RESTRICTIONS ON POLITICAL ACTIVITIES.

AN EMPLOYEE OF A GOVERNMENTAL ENTITY MAY NOT:

(1) ENGAGE IN POLITICAL ACTIVITY WHILE ON THE JOB DURING WORKING HOURS; OR

(2) ADVOCATE THE OVERTHROW OF THE GOVERNMENT BY UNCONSTITUTIONAL OR VIOLENT MEANS.

REVISOR'S NOTE: This section formerly was Art. 24, § 13–105.

The only changes are in style.

1–305. PENALTY.

A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $3,000 OR BOTH.

REVISOR'S NOTE: This section formerly was Art. 24, § 13–106.

The only changes are in style.

Defined term: "Person" § 1–101

1–306. EFFECT OF SUBTITLE.

NOTWITHSTANDING ANY OTHER LAW OF THE STATE EFFECTIVE ON OR BEFORE JUNE 30, 1973, OR ANY LOCAL LAW, THE RESTRICTIONS IMPOSED BY THIS SUBTITLE ARE THE ONLY RESTRICTIONS ON THE POLITICAL ACTIVITIES OF AN EMPLOYEE OF A GOVERNMENTAL ENTITY, EXCEPT FOR RESTRICTIONS:

(1) IMPOSED ON AN EMPLOYEE OF A LOCAL BOARD OF ELECTIONS BY § 2–301 OF THE ELECTION LAW ARTICLE; OR

(2) PROVIDED IN OR AUTHORIZED BY THE MONTGOMERY COUNTY CHARTER AND IMPOSED ON:

(I) AN OFFICER OR EMPLOYEE OF THE MONTGOMERY COUNTY GOVERNMENT WHO SERVES IN A QUASI–JUDICIAL CAPACITY; OR

(II) A MEMBER OF A MONTGOMERY COUNTY BOARD OR COMMISSION WHO SERVES IN A QUASI–JUDICIAL CAPACITY.

REVISOR'S NOTE: This section formerly was Art. 24, § 13–104.

In item (1) of this section, the reference to a "local board of elections" is substituted for the former reference to a "board of supervisors of elections" for consistency with the terminology used in the Election Law Article and with a similar provision under SP § 2–204.

The only other changes are in style.

Defined term: "State" § 1–101

SUBTITLE 4. PURCHASING AND SALES.

1–401. COMPUTER SOFTWARE PROGRAMS.

(A) "COMPUTER SOFTWARE PROGRAM" DEFINED.

IN THIS SECTION, "COMPUTER SOFTWARE PROGRAM" MEANS A SOFTWARE PROGRAM USED TO:

(1) ACCESS DATA IN A COMPUTER SYSTEM; OR

(2) IMPLEMENT A PROCESS USING DATA IN A COMPUTER SYSTEM.

(B) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO A COMPUTER SOFTWARE PROGRAM SUBJECT TO TITLE 10, SUBTITLE 9 OF THE STATE GOVERNMENT ARTICLE.

(C) CONTRACTS; PRICE STRUCTURE.

(1) A COUNTY OR MUNICIPALITY MAY SELL, LEASE, OR LICENSE TO THE PUBLIC, OR ENTER INTO A CONTRACT CONCERNING, A COMPUTER SOFTWARE PROGRAM, INCLUDING ANY ASSOCIATED PATENT, TRADEMARK, OR COPYRIGHT, THAT IS PRODUCED BY OR FOR THE COUNTY OR MUNICIPALITY IN THE NORMAL COURSE OF ITS OPERATIONS.

(2) A COUNTY OR MUNICIPALITY MAY ADOPT A PRICE STRUCTURE FOR A COMPUTER SOFTWARE PROGRAM BASED ON ANY FACTORS THAT THE COUNTY OR MUNICIPALITY CONSIDERS RELEVANT, INCLUDING:

(I) THE COST OF PRODUCING, REPRODUCING, AND DELIVERING THE COMPUTER SOFTWARE PROGRAM;

(II) OVERHEAD AND LABOR COSTS; AND

(III) THE FAIR MARKET VALUE OF THE COMPUTER SOFTWARE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 17–101.

Subsection (b) of this section is revised as a substantive provision rather than as part of the definition of "computer software program" because the former provision served to delineate the specific computer system to which this section is not applicable.

In subsection (c)(1) of this section, the reference to an "associated" patent, trademark, or copyright is added for clarity.

Also in subsection (c)(1) of this section, the former reference to computer software that is "developed" is deleted as included in the reference to computer software "produced".

In subsection (c)(2)(i) of this section, the reference to "producing" computer software is substituted for the former reference to "creating, [and] developing" computer software for brevity and consistency within this subsection.

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

1–402. RECIPROCAL PREFERENCE FOR RESIDENT BIDDERS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "NONRESIDENT BIDDER" MEANS A BIDDER WHOSE PRINCIPAL OFFICE IS OUTSIDE THE STATE.

(3) "PREFERENCE" INCLUDES:

(I) A PERCENTAGE PREFERENCE;

(II) AN EMPLOYEE RESIDENCY REQUIREMENT; OR

(III) ANY OTHER PROVISION THAT FAVORS A RESIDENT OVER A NONRESIDENT.

(4) "RESIDENT BIDDER" MEANS A BIDDER WHOSE PRINCIPAL OFFICE IS IN THE STATE.

(B) CONDITIONS FOR PREFERENCE.

WHEN A POLITICAL SUBDIVISION OR AN INSTRUMENTALITY OF GOVERNMENT IN THE STATE USES COMPETITIVE BIDDING TO AWARD A PROCUREMENT CONTRACT, THE POLITICAL SUBDIVISION OR INSTRUMENTALITY MAY GIVE A PREFERENCE TO THE RESIDENT BIDDER WHO SUBMITS THE LOWEST RESPONSIVE BID OF ANY RESIDENT BIDDER IF:

(1) THE RESIDENT BIDDER IS A RESPONSIBLE BIDDER;

(2) A RESPONSIBLE NONRESIDENT BIDDER SUBMITS THE LOWEST RESPONSIVE BID OF ALL BIDDERS; AND

(3) THE STATE IN WHICH THE NONRESIDENT BIDDER'S PRINCIPAL OFFICE IS LOCATED GIVES A PREFERENCE TO ITS RESIDENTS.

(C) FORM OF PREFERENCE.

A PREFERENCE UNDER THIS SECTION SHALL BE IDENTICAL TO THE PREFERENCE THAT THE STATE IN WHICH THE NONRESIDENT BIDDER'S PRINCIPAL OFFICE IS LOCATED GIVES TO ITS RESIDENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 8–102.

In subsection (a)(2) and (4) of this section, the references to a "bidder" are substituted for the former references to a "business entity" for clarity and conformity with § 14–401 of the State Finance and Procurement Article.

In subsection (a)(2) of this section, the defined term "[n]onresident bidder" is substituted for the former defined term "[n]onresident firm" for clarity and consistency with other terminology used in this section.

In subsection (a)(3) of this section, the defined term "[p]reference" is substituted for the former term "advantage" for clarity and conformity with § 14–101 of the State Finance and Procurement Article.

In subsection (a)(3)(iii) of this section, the reference to any other provision that favors "a resident over a nonresident" is substituted for the former reference to any other provision that favors "a nonresident firm over a Maryland firm" for clarity and consistency with the manner in which the defined term "preference" is used in this section and to conform with § 14–401 of the State Finance and Procurement Article.

In subsection (a)(4) of this section, the defined term "[r]esident bidder" is substituted for the former defined term "Maryland firm" for clarity and conformity with § 14–401 of the State Finance and Procurement Article.

In the introductory language of subsection (b) of this section, the reference to a "procurement" contract is added for clarity.

Also in the introductory language of subsection (b) of this section, the former reference to giving a preference to a resident bidder "over that of the nonresident firm" is deleted in light of the definition of "preference" in subsection (a) of this section.

In subsection (b)(2) of this section, the reference to a "responsible nonresident bidder submit[ting] the lowest responsive bid of all bidders" is added to state expressly that which was only implied in the former law and to conform to § 14–401(b) of the State Finance and Procurement Article.

In subsections (b)(3) and (c) of this section, the references to the bidder's "principal" office are added for consistency with the defined terms in subsection (a) of this section.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference to "political subdivision" in subsection (b) of this section is unclear because the term has been used inconsistently throughout the Code. The General Assembly may wish to clarify what entities are meant to be included in the term.

Defined term: "State" § 1–101

1–403. CONTRACTS NOT AUTHORIZED BY APPROPRIATION PROHIBITED.

(A) IN GENERAL.

AN OFFICER OR AGENT OF A COUNTY OR MUNICIPALITY WHO IS CHARGED WITH THE CONSTRUCTION, IMPROVEMENT, OR MAINTENANCE OF ANY BUILDING OR WORK, OR THE MANAGEMENT OF A PUBLIC INSTITUTION, MAY NOT ENTER INTO ANY CONTRACT THAT BINDS OR PURPORTS TO BIND THE COUNTY OR MUNICIPALITY TO PAY MONEY NOT PREVIOUSLY APPROPRIATED AND REMAINING UNEXPENDED FOR THE PURPOSE OF THE CONTRACT.

(B) LIABILITY.

IF AN OFFICER OR AGENT OF A COUNTY OR MUNICIPALITY WILLFULLY OR KNOWINGLY ENTERS INTO OR PARTICIPATES IN ENTERING INTO A CONTRACT PROHIBITED UNDER SUBSECTION (A) OF THIS SECTION:

(1) THE OFFICER OR AGENT IS PERSONALLY LIABLE FOR THE CONTRACT; AND

(2) THE COUNTY OR MUNICIPALITY IS NOT LIABLE FOR THE CONTRACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 31, § 3.

In subsection (a) of this section, the reference to "maintenance" of any building is substituted for the former reference to "keeping in repair" for clarity.

Also in subsection (a) of this section, the former reference to a building or work "of any kind" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to an officer or agent "entrusted" with construction, improvement, or maintenance is deleted as included in the reference to an officer or agent so "charged".

Also in subsection (a) of this section, the former reference to "providing for" a public institution is deleted as included in the reference to "manag[ing]" a public institution.

Also in subsection (a) of this section, the former reference to money not previously appropriated "for the purpose for which such contract is made" is deleted as surplusage.

In the introductory language of subsection (b) of this section, the reference to entering into a contract "prohibited under subsection (a) of this section" is substituted for the former reference to entering into a contract "without such appropriation or authority" for clarity.

In subsection (b)(2) of this section, the former reference to the county or municipality "in whose name or behalf the same was made" is deleted as surplusage.

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

SUBTITLE 5. REGULATION OF LEAD PAINT RISK REDUCTION IN RESIDENTIAL PROPERTY FOR RENT OR LEASE.

1–501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 19–101(a).

The only changes are in style.

(B) AFFECTED PROPERTY.

"AFFECTED PROPERTY" HAS THE MEANING STATED IN § 6–801 OF THE ENVIRONMENT ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 19–101(b).

No changes are made.

(C) RESIDENTIAL PROPERTY.

(1) "RESIDENTIAL PROPERTY" MEANS A BUILDING OR A PORTION OF A BUILDING THAT PROVIDES COMPLETE LIVING FACILITIES, INCLUDING FACILITIES FOR COOKING, SANITATION, AND SLEEPING.

(2) "RESIDENTIAL PROPERTY" INCLUDES:

(I) A SINGLE–FAMILY UNIT IN A MULTIFAMILY DWELLING; AND

(II) A "RENTAL DWELLING UNIT" AS DEFINED UNDER § 6–801 OF THE ENVIRONMENT ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 19–101(d).

In paragraph (1) of this subsection, the former reference to facilities including certain items "at a minimum" is deleted as unnecessary in light of Art. 1, § 30, which provides that "includes" is used "by way of illustration and not by way of limitation".

No other changes are made.

REVISOR'S NOTE TO SECTION:

Former Art. 24, § 19–101, which defined local government to mean a county or municipality, is deleted as unnecessary in light of the preference for the use of the term "county or municipality" throughout this article.

1–502. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO THE REGULATION IN ANY MANNER, BY A COUNTY OR MUNICIPALITY, OF RESIDENTIAL PROPERTY THAT IS RENTED OR LEASED, INCLUDING REGULATION BY THE ISSUANCE OR RENEWAL OF:

(1) A LICENSE OR REGISTRATION TO AUTHORIZE THE OWNER OF RESIDENTIAL PROPERTY TO ENGAGE IN THE BUSINESS OF RENTING OR LEASING THE RESIDENTIAL PROPERTY;

(2) A LICENSE OR REGISTRATION TO AUTHORIZE RESIDENTIAL PROPERTY TO BE RENTED OR LEASED; OR

(3) A CERTIFICATION THAT RESIDENTIAL PROPERTY THAT IS RENTED OR LEASED IS IN COMPLIANCE WITH A LOCAL HOUSING, LIVABILITY, OR PROPERTY MAINTENANCE CODE.

REVISOR'S NOTE: This section formerly was Art. 24, § 19–102.

The only changes are in style.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"Residential property" § 1–501

1–503. WRITING REQUIRED BY OWNER BEFORE RENTING OR LEASING PROPERTY.

A COUNTY OR MUNICIPALITY MAY NOT AUTHORIZE OR CERTIFY RESIDENTIAL PROPERTY TO BE RENTED OR LEASED UNLESS THE OWNER OF THE PROPERTY:

(1) STATES IN WRITING TO THE COUNTY OR MUNICIPALITY UNDER PENALTY OF PERJURY:

(I) THAT THE RESIDENTIAL PROPERTY IS NOT AN AFFECTED PROPERTY; OR

(II) THAT THE RESIDENTIAL PROPERTY IS AN AFFECTED PROPERTY THAT HAS BEEN REGISTERED AND FOR WHICH THE REGISTRATION HAS BEEN RENEWED IN ACCORDANCE WITH §§ 6–811 AND 6–812 OF THE ENVIRONMENT ARTICLE; AND

(2) IF THE PROPERTY IS AN AFFECTED PROPERTY, PROVIDES THE INSPECTION CERTIFICATE NUMBER FOR THE INSPECTION CONDUCTED FOR THE CURRENT TENANCY AS REQUIRED UNDER § 6–815(C), § 6–817(B), OR § 6–819(E) OF THE ENVIRONMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 19–103(1) and (2)(i) and (ii)2.

In item (1)(ii) of this section, the former references to "landlord" are deleted as unnecessary in light of the reference to "§§ 6–811 and 6–812 of the Environment Article".

In item (2) of this section, the former phrase "[o]n or after February 24, 2006" is deleted as obsolete.

Former Art. 24, § 19–103(2)(ii)1, which required inspection certificate numbers for an inspection conducted as required under § 6–815(c) of the Environment Article if the current tenant moved into the property on or after February 24, 1996, is deleted as obsolete. Chapter 616 of the Acts of the General Assembly of 1997 set February 26, 2004, as the date after which all qualifying properties must obtain an inspection certificate number, regardless of the date the current tenant moved in.

Defined terms: "Affected property" § 1–501
"County" § 1–101
"Municipality" § 1–101
"Residential property" § 1–501

1–504. FORWARDING OF INFORMATION TO DEPARTMENT OF THE ENVIRONMENT.

IN ADDITION TO REPORTING, AS REQUIRED UNDER § 6–848.2 OF THE ENVIRONMENT ARTICLE, ANY KNOWN NONCOMPLIANCE OF AN AFFECTED PROPERTY WITH THE PROVISIONS OF TITLE 6, SUBTITLE 8 OF THE ENVIRONMENT ARTICLE, A COUNTY OR MUNICIPALITY MAY FORWARD TO THE DEPARTMENT OF THE ENVIRONMENT ANY INFORMATION OBTAINED UNDER THIS SUBTITLE REGARDING RESIDENTIAL PROPERTY.

REVISOR'S NOTE: This section formerly was Art. 24, § 19–104.

The only changes are in style.

Defined terms: "Affected property" § 1–501
"County" § 1–101
"Municipality" § 1–101
"Residential property" § 1–501

SUBTITLE 6. PUBLIC RECREATION AND PARKS.

1–601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE 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) PARKS AND RECREATION UNIT.

"PARKS AND RECREATION UNIT" MEANS A GOVERNMENTAL UNIT DESIGNATED OR CREATED UNDER § 1–604 OF THIS SUBTITLE TO ADMINISTER A PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 25, § 222, as it generally related to the description of the governmental unit that operates a parks and recreation program in a county or municipality.

Defined term: "Program" § 1–601

(C) PROGRAM.

"PROGRAM" MEANS A PROGRAM OF PUBLIC RECREATION AND PARKS.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to a "program of public recreation and parks".

REVISOR'S NOTE TO SECTION:

Former Art. 25, § 223, which defined "governing body", is deleted as unnecessary in light of the defined term "governing body" in § 1–101 of this article.

1–602. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO CHARLES COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 25, § 3(u).

The reference to "[t]his subtitle … not apply[ing] to Charles County" is substituted for the former reference to "[t]he powers of … Charles County [being] controlled by … the local laws of the county and not by … this subsection" for brevity and because it is implicit that the local law would control if the State statute does not apply.

1–603. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE IS ADDITIONAL AND SUPPLEMENTAL TO ANY LAW GOVERNING A PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 229.

The phrase "governing a program" is substituted for the former phrase "providing recreation and park services" for brevity and clarity.

The former reference to this subtitle "not negat[ing] or mak[ing] inoperative" any law is deleted as implicit in the reference to this subtitle "[being] additional and supplemental to" any law.

The former reference to "existing" laws is deleted as surplusage.

The former phrase "in accordance with this subheading" is deleted as surplusage.

The former reference to "nothing herein ... supersed[ing] … the charter of the City of Baltimore … or any public local law … concerning their department of recreation and parks" is deleted as unnecessary in light of

this section and Art. 1, § 13, which states that where the public general law and the public local law of a county or municipality are in conflict the public local law prevails.

Defined term: "Program" § 1–601

1–604. AUTHORITY TO ESTABLISH PROGRAM AND PARKS AND RECREATION UNIT.

THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY:

(1) ESTABLISH AND MAINTAIN A PROGRAM FOR THE BENEFIT OF THE RESIDENTS OF THE COUNTY OR MUNICIPALITY; AND

(2) CREATE OR DESIGNATE A PARKS AND RECREATION UNIT TO ADMINISTER THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 222, the first sentence of § 3(u), and the first sentence of § 225(a).

In paragraph (1) of this section, the reference to the "residents of the county or municipality" is substituted for the former references to "inhabitants of the county" and "citizens within their respective jurisdictions" for clarity and consistency with other similar provisions of this article.

Also in paragraph (1) of this section, the reference to a "program" is substituted for the former reference to "public parks, gardens, playgrounds, and other recreational facilities and programs" for brevity.

Also in paragraph (1) of this section, the former reference to programs "to promote the health, welfare, and enjoyment" of residents is deleted as included in the reference to a program "for the benefit" of residents.

Also in paragraph (1) of this section, the former reference to "conduct[ing]" a program is deleted as included in the reference to "establish[ing] and maintain[ing]" a program.

In paragraph (2) of this section, the reference to "creat[ing] or designat[ing] a parks and recreation unit" is substituted for the former references to "creating a special board or department or by designating an existing agency, department, board or commission or combination thereof" and "vest[ing] the power to provide, maintain and conduct a comprehensive program of public recreation and parks in an existing

recreation and park commission or board, or in another existing agency, department, board or commission" for clarity and brevity.

Also in paragraph (2) of this section, the reference to a unit "administer[ing] the program" is substituted for the former reference to "provid[ing] such services ... for such purposes" for clarity and brevity.

Former Art. 23A, § 7A, which provided that a municipality may exercise any power or authority conferred by former Art. 25, §§ 222 through 230, is deleted as unnecessary in light of the references throughout those sections, currently revised in this subtitle, to municipalities.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101
"Parks and recreation unit" § 1–601
"Program" § 1–601

1–605. DESIGNATED PARKS AND RECREATION UNITS.

(A) AUTHORITY.

A PARKS AND RECREATION UNIT MAY:

(1) MAINTAIN A PARK OR RECREATIONAL FACILITY; AND

(2) CONDUCT RECREATION AND PARK ACTIVITIES.

(B) STAFFING.

THE PARKS AND RECREATION UNIT MAY EMPLOY AN ADMINISTRATIVE OFFICER AND OTHER PERSONNEL AS NECESSARY AND AS AUTHORIZED BY THE GOVERNING BODY OF THE COUNTY OR MUNICIPALITY.

(C) VOLUNTEER GROUPS.

THE PARKS AND RECREATION UNIT MAY ORGANIZE VOLUNTEER GROUPS OR COUNCILS TO AID IN THE IMPLEMENTATION OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 225(b) and the second sentence of (a).

In subsection (b) of this section, the former phrase "for the purpose of carrying out the provisions of this subheading" is deleted as surplusage.

Also in subsection (b) of this section, the former reference to employing personnel as the unit considers "proper" is deleted as included in the references to "necessary" and "authorized".

In subsection (c) of this section, the former reference to volunteer "citizens" groups is deleted as surplusage.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101
"Parks and recreation unit" § 1–601
"Program" § 1–601

1–606. CREATED PARKS AND RECREATION BOARD OR COMMISSION.

(A) CREATION OF PARKS AND RECREATION BOARD OR COMMISSION.

(1) IF THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY DETERMINES THAT A BOARD OR COMMISSION SHALL PROVIDE AND CONDUCT A PROGRAM, BY LOCAL LAW, ORDINANCE, OR RESOLUTION, THE GOVERNING BODY SHALL CREATE A BOARD OR COMMISSION.

(2) THE BOARD OR COMMISSION SHALL HAVE THE POWERS GRANTED TO IT BY THE GOVERNING BODY.

(B) MEMBERSHIP; TENURE; COMPENSATION.

IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, THE GOVERNING BODY OF THE COUNTY OR MUNICIPALITY SHALL DETERMINE THE MEMBERSHIP OF THE BOARD OR COMMISSION AND THE TERMS OF OFFICE AND COMPENSATION OF THE MEMBERS.

(C) REQUIRED MEMBERSHIP — COUNTY ENTITIES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A BOARD OR COMMISSION ESTABLISHED BY A COUNTY SHALL INCLUDE:

(I) ONE MEMBER OF THE COUNTY GOVERNING BODY; AND

(II) ONE MEMBER OR REPRESENTATIVE OF THE COUNTY BOARD OF EDUCATION.

(2) A MEMBER DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) SHALL SERVE A TERM OF 1 YEAR; AND

(II) MAY BE REAPPOINTED.

(3) IN FREDERICK COUNTY:

(I) THE COUNTY COMMISSIONER ON THE BOARD OR COMMISSION SERVES FOR A TERM COEXTENSIVE WITH THE MEMBER'S TERM OF ELECTED OFFICE; AND

(II) A MEMBER OF THE COUNTY BOARD OF EDUCATION IS A MEMBER OF THE BOARD OR COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 226.

In subsection (a)(1) of this section, the reference to the governing body determining that a board or commission "is to provide and conduct a program" is substituted for the former reference to the governing body determining "the power to provide, establish, maintain and conduct a comprehensive program ... shall be exercised by" a board or commission for clarity and brevity.

Also in subsection (a)(1) of this section, the former reference to establishing a parks and recreation unit "in such county or municipal corporation" is deleted as surplusage.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101
"Program" § 1–601

1–607. PARK OR RECREATIONAL FACILITIES.

(A) PROPERTY OWNED OR LEASED BY COUNTY OR MUNICIPALITY.

THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY ESTABLISH AND MAINTAIN ANY PROPERTY OWNED OR LEASED BY THE COUNTY OR MUNICIPALITY FOR USE AS A PARK OR RECREATIONAL FACILITY.

(B) ACQUISITION OF PROPERTY.

IN ACCORDANCE WITH APPLICABLE LAW, AND SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY ACQUIRE OR LEASE ANY PROPERTY INSIDE OR OUTSIDE ITS CORPORATE LIMITS FOR USE AS A PARK OR RECREATIONAL FACILITY.

(C) CONDEMNATION POWER NOT GRANTED OR RESTRICTED.

THIS SUBTITLE DOES NOT GRANT OR RESTRICT THE POWER OF CONDEMNATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, §§ 14 and 224(a).

In subsections (a) and (b) of this section, the references to any "property" are substituted for the former references to any "water, land, buildings or other improvements thereon" for brevity.

In subsection (a) of this section, the former references to "dedicat[ing]" and "set[ting] apart" any property are deleted as included in the reference to "establish[ing]" property.

Also in subsection (a) of this section, the former reference to the county or municipality establishing or maintaining facilities "directly or by contract" is deleted as included in the reference to using any property "owned or leased" by the county or municipality.

In subsection (b) of this section, the phrase "[i]n accordance with applicable law" is substituted for the former phrase "in the manner now or hereafter authorized or provided by law for the acquisition or leasing of property for public purposes" for brevity.

In subsection (c) of this section, the reference to "restrict[ing] the power of condemnation" is added to state explicitly that which was formerly only implied, that the subtitle was not intended to affect the power of condemnation already held by a county or municipality.

Also in subsection (c) of this section, the former phrase "if such county or municipal corporation does not have such power by virtue of other provisions of law" is deleted as surplusage.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101

1–608. APPROPRIATIONS.

THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY APPROPRIATE MONEY FOR THE OPERATION, EQUIPMENT, AND MAINTENANCE OF A PARK OR RECREATIONAL FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 224(b).

The former phrase "[w]hen the governing body of any county or municipal corporation dedicates, sets apart, acquires or leases water, land, buildings or other improvements thereon" is deleted as surplusage.

The former reference to "program" is deleted as included in the reference to "operation" of a park or recreational facility.

The former reference to making appropriations "in the manner provided by law for making such appropriations" is deleted as implicit in the authority to make an appropriation.

The former reference to making appropriations "from the general funds of the county or municipal corporation or from any available designated funds" is deleted as unnecessary because this encompasses all funds that are available.

The former reference to the operation, equipment, and maintenance of a park or recreational facility "pursuant to the provisions of this subheading" is deleted as surplusage.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101

1–609. BONDING AUTHORITY.

IN THE MANNER PROVIDED BY LAW FOR THE ISSUANCE OF BONDS FOR OTHER PURPOSES, THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY ISSUE BONDS TO:

(1) ACQUIRE PROPERTY FOR USE AS A PARK OR RECREATIONAL FACILITY;

(2) ACQUIRE THE EQUIPMENT FOR A PARK OR RECREATIONAL FACILITY;

(3) REDESIGN, IMPROVE, CONSTRUCT, DEVELOP, OR EXTEND A PARK OR RECREATIONAL FACILITY; OR

(4) PROVIDE FOR ANY APPROPRIATE CAPITAL ITEM IN COOPERATION WITH OTHER GOVERNMENTAL UNITS UNDER § 1–610 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 224(c).

In the introductory language of this section, the former reference to bonds "of the county or municipal corporation" is deleted as surplusage.

In item (1) of this section, the reference to "property" is substituted for the former reference to "water, land and buildings or other improvements thereon" for brevity.

In item (2) of this section, the reference to "acquir[ing]" equipment is added for clarity.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101

1–610. COOPERATION WITH OTHER GOVERNMENTAL UNITS.

THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY, BY AND THROUGH THE PARKS AND RECREATION UNIT OR OTHER DESIGNATED UNIT, MAY JOIN OR COOPERATE WITH A FEDERAL, STATE, OR OTHER LOCAL GOVERNMENTAL UNIT OR COMMUNITY RECREATION COUNCIL TO ACQUIRE, LEASE, OR MAINTAIN A PARK OR RECREATIONAL FACILITY OR PROVIDE OR CONDUCT A PARK OR RECREATIONAL ACTIVITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 227.

The reference to a designated "unit" is substituted for the former reference to a designated "agency, department, board or commission". The word "unit" is used as the general term for an entity in the government because it is inclusive enough to include the other entities.

The reference to "a federal, State, or other local governmental unit" is substituted for the former reference to "the federal government, or the State of Maryland or with one or more counties, municipal corporations, … or with the county board of education, or with the commission or board of recreation and parks or other designated agency, department, board or commission of one or more other counties or municipal corporations" for brevity.

The references to "acquir[ing], leas[ing], or maintain[ing] a park or recreational facility" and "provid[ing] or conduct[ing] a park or recreational activity" are substituted for the former reference to "acquiring, leasing, providing, establishing, maintaining and conducting other recreation and park areas and facilities and activities" for clarity.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101
"Parks and recreation unit" § 1–601

1–611. GIFTS AND CONTRIBUTIONS.

THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY, BY AND THROUGH THE PARKS AND RECREATION UNIT OR OTHER DESIGNATED UNIT, MAY ACCEPT:

(1) A GIFT OF PROPERTY FOR USE AS A PARK OR RECREATIONAL FACILITY; OR

(2) OTHER CONTRIBUTIONS FOR PARKS AND RECREATION PURPOSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 228.

In the introductory language of this section, the reference to a designated "unit" is substituted for the former reference to a designated "agency, department, board or commission". The word "unit" is used as the general term for an entity in the government because it is inclusive enough to include the other entities.

In item (1) of this section, the reference to gifts of "property" is substituted for the former reference to "land, water, buildings, or other improvements thereon" for brevity.

Also in item (1) of this subsection, the former reference to a "public" park or recreational facility is deleted for consistency within this subtitle.

In item (2) of this section, the reference to "other contributions" is substituted for the former reference to "moneys" to be inclusive of all types of contributions that can be made.

Defined terms: "County" § 1–101
"Governing body" § 1–101

"Municipality" § 1–101
"Parks and recreation unit" § 1–601

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 25, § 230, which provided that the provisions of this subtitle are severable, is deleted as redundant of Art. 1, § 23, which states that the provisions of statutes enacted after July 1, 1973, are severable unless the statute specifically provides otherwise.

SUBTITLE 7. LIMITS ON COMPETITION; FRANCHISES.

1–701. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO BALTIMORE CITY.

REVISOR'S NOTE: This section is new language added to clarify that this subtitle does not apply to Baltimore City.

Provisions of law that apply to Baltimore City that are similar to provisions in this subtitle can be found in Article II, §§ 35A and 58 of the Charter of Baltimore City.

1–702. AUTHORITY TO GRANT FRANCHISES.

(A) CONSTRUCTION OF SUBTITLE.

SECTIONS 1–703 THROUGH 1–707 OF THIS SUBTITLE DO NOT:

(1) GRANT TO A COUNTY OR MUNICIPALITY ADDITIONAL AUTHORITY IN ANY SUBSTANTIVE AREA BEYOND THAT GRANTED UNDER OTHER PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW;

(2) RESTRICT A COUNTY OR MUNICIPALITY FROM EXERCISING AUTHORITY GRANTED UNDER OTHER PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW;

(3) AUTHORIZE A COUNTY OR MUNICIPALITY TO ENGAGE IN AN ACTIVITY NOT AUTHORIZED UNDER OTHER PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW; OR

(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF A UNIT OF STATE GOVERNMENT.

(B) IN GENERAL.

(1) THIS SECTION APPLIES TO ALL COUNTIES, EXCEPT:

(I) ANNE ARUNDEL COUNTY;

(II) BALTIMORE CITY;

(III) BALTIMORE COUNTY;

(IV) CECIL COUNTY;

(V) HOWARD COUNTY;

(VI) PRINCE GEORGE'S COUNTY;

(VII) QUEEN ANNE'S COUNTY; AND

(VIII) WORCESTER COUNTY.

(2) THE PROVISIONS OF §§ 9–105 AND 9–106 OF THIS ARTICLE APPLY TO AN ACT, AN ORDINANCE, OR A RESOLUTION ADOPTED BY A COMMISSION COUNTY UNDER THIS SECTION.

(3) A COUNTY MAY GRANT FRANCHISES AS PROVIDED UNDER EXISTING PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW.

REVISOR'S NOTE: Subsections (a) and (b)(1) and (3) of this section are new language derived without substantive change from former Art. 23A, § 2A(e), Art. 25, § 3(c), and, as it related to the scope of subsection (b), (a), and § 3D(d), Art. 25A, § 5A(d), and Art. 25B, § 13B(e).

Subsection (b)(2) of this section is new language added to clarify that the provisions of §§ 9–105 and 9–106 of this article, former Art. 25, §§ 3(r) and 4, which applied to any act, ordinance, or resolution enacted by a commission county under the provisions of former Art. 25, § 3 of the Code apply to an act, an ordinance, or a resolution adopted by a commission county under this section.

In subsection (a)(3) of this section, the reference to an activity "not authorized" is substituted for the former references to an activity "beyond their power" for clarity.

Also in subsection (a)(3) of this section, the former references to "officers" of a county or municipality are deleted as implicit in the reference to a "county or municipality".

In subsection (a)(4) of this section, the reference to a "unit" of State government is substituted for the former references to a "department or agency" of State government. The word "unit" is used as the general term for an entity in the government because it is inclusive enough to include the other entities.

Also in subsection (a)(4) of this section, the former phrase "under any public general law" is deleted as implicit in the reference to the "regulatory authority of a unit".

In subsection (b)(1) of this section, the reference to "Baltimore City" is added because former Art. 25, § 3(a), Art. 25A, § 4, and Art. 25B, § 13 made the powers granted in former Art. 25, § 3(c) applicable to commission counties, code counties, and charter counties, except the counties specifically excluded under former Art. 25, § 3(a)(2). There is no similar grant of power for Baltimore City.

Defined terms: "Commission county" § 1–101
"County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–703. PUBLIC TRANSPORTATION.

(A) LEGISLATIVE POLICY.

IT IS THE POLICY OF THE STATE TO AUTHORIZE EACH COUNTY AND MUNICIPALITY TO DISPLACE OR LIMIT COMPETITION IN THE AREA OF PUBLIC TRANSPORTATION TO:

(1) PROVIDE ADEQUATE, ECONOMICAL, AND EFFICIENT TRANSPORTATION SERVICES;

(2) PROTECT AGAINST EXCESSIVE AND INCONSISTENT PRICES FOR TRANSPORTATION SERVICES;

(3) CONSERVE ENERGY AND REDUCE ACCIDENTS, AIR POLLUTION, CONGESTION, AND TRAFFIC HAZARDS THROUGH PUBLIC TRANSPORTATION;

(4) ENCOURAGE ITS USE BY CONTRIBUTING CAPITAL AND OPERATING FUNDS SO THAT TRANSPORTATION MAY BE PROVIDED AT THE LOWEST COST; AND

(5) PROMOTE THE GENERAL WELFARE BY PROVIDING A COMPREHENSIVE TRANSPORTATION SYSTEM.

(B) AUTHORITY.

NOTWITHSTANDING ANY ANTICOMPETITIVE EFFECT, A COUNTY OR MUNICIPALITY MAY:

(1) (I) GRANT ONE OR MORE FRANCHISES FOR TRANSPORTATION SERVICES ON AN EXCLUSIVE OR NONEXCLUSIVE BASIS;

(II) IMPOSE FRANCHISE FEES;

(III) ESTABLISH RATES APPLICABLE TO THE FRANCHISE; AND

(IV) ADOPT RULES, REGULATIONS, AND LICENSING REQUIREMENTS FOR THE OPERATION OF THE FRANCHISE; OR

(2) OPERATE A PUBLIC TRANSPORTATION SYSTEM ON AN EXCLUSIVE BASIS, INCLUDING:

(I) ESTABLISHING RATES FOR THE PUBLIC TRANSPORTATION SYSTEM; AND

(II) ADOPTING RULES AND REGULATIONS FOR THE OPERATION OF THE PUBLIC TRANSPORTATION SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2A(a), Art. 25, § 3D(a)(1) and (2), Art. 25A, § 5A(a), and Art. 25B, § 13B(a).

In subsection (a) of this section, the former references to providing "necessary and desired services in all areas" of the county or municipality are deleted as included in the reference to providing "adequate, economical, and efficient transportation services".

In subsection (a)(2) of this section, the reference to prices "for transportation services" is added for clarity.

Also in subsection (a)(2) of this section, the former references to protecting "its citizens" are deleted as surplusage.

In subsection (a)(4) of this section, the former references to "all citizens, especially the indigent" are deleted as surplusage.

In the introductory language of subsection (b)(1) of this section, the reference to transportation "services" is substituted for the former references to a transportation "system" for consistency with subsection (a) of this section.

In subsection (b)(1)(iii) of this section, the reference to rates "applicable to the franchise" is substituted for the former references to "certain" rates for clarity.

In subsection (b)(1)(iv) of this section, the former references to providing for the "enforcement of any such measure" are deleted as implicit in the authority to adopt rules, regulations, and licensing requirements.

In subsection (b)(2)(i) of this section, the reference to rates "for the public transportation system" is added for clarity.

In subsection (b)(2)(ii) of this section, the reference to rules and regulations "for the operation of the public transportation system" is added for clarity.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–704. WATER AND SEWERAGE SYSTEMS.

(A) LEGISLATIVE POLICY.

IT IS THE POLICY OF THE STATE TO AUTHORIZE EACH COUNTY AND MUNICIPALITY TO DISPLACE OR LIMIT COMPETITION IN THE AREA OF WATER AND SEWERAGE SYSTEMS TO:

(1) ASSURE DELIVERY OF ADEQUATE, ECONOMICAL, AND EFFICIENT WATER AND SEWERAGE SERVICES;

(2) AVOID DUPLICATION OF WATER AND SEWERAGE FACILITIES;

(3) CONTROL DISEASE AND PROVIDE FOR THE PUBLIC HEALTH AND SAFETY;

(4) PREVENT ENVIRONMENTAL DEGRADATION;

(5) PROTECT NATURAL RESOURCES;

(6) USE THE PUBLIC RIGHT–OF–WAY EFFICIENTLY; AND

(7) PROMOTE THE GENERAL WELFARE BY PROVIDING ADEQUATE WATER AND SEWERAGE SYSTEMS.

(B) AUTHORITY.

(1) NOTWITHSTANDING ANY ANTICOMPETITIVE EFFECT, A COUNTY OR MUNICIPALITY MAY:

(I) GRANT ONE OR MORE FRANCHISES OR ENTER INTO CONTRACTS FOR WATER OR SEWERAGE SYSTEMS ON AN EXCLUSIVE OR NONEXCLUSIVE BASIS;

(II) IMPOSE FRANCHISE FEES;

(III) ESTABLISH CHARGES AND RATES APPLICABLE TO THE FRANCHISE; AND

(IV) ADOPT RULES, REGULATIONS, AND LICENSING REQUIREMENTS FOR THE OPERATION OF THE FRANCHISE.

(2) IF ANOTHER LAW GRANTS A COUNTY OR MUNICIPALITY THE AUTHORITY TO OPERATE WATER AND SEWERAGE SYSTEMS, THE COUNTY OR MUNICIPALITY SHALL OPERATE THE SYSTEMS WITHOUT REGARD TO ANY ANTICOMPETITIVE EFFECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2A(b)(1) and (2), Art. 25, § 3D(b)(1) and (2), Art. 25A, § 5A(b)(1) and (2), and Art. 25B, § 13B(b)(1) and (2).

In subsection (a)(1) of this section, the former references to providing services for "its citizens" are deleted as surplusage.

Also in subsection (a)(1) of this section, the reference to "water and sewerage" services is added for clarity and consistency with other similar provisions of this subtitle.

In subsection (a)(2) of this section, the reference to "water and sewerage" facilities is added for clarity.

In subsection (a)(3) of this section, the reference to "public" health and safety is substituted for the former references to the health and safety "of its citizens" for brevity.

In subsection (a)(4) of this section, the former references to "blight" are deleted as included in the reference to "environmental degradation".

In subsection (a)(5) of this section, the former references to protecting "limited" natural resources "for the benefit of the citizens" of the county or municipality are deleted as surplusage.

In subsection (a)(7) of this section, the former references to promoting the general "health" are deleted as included in the reference to "provid[ing] for the public health" in subsection (a)(3) of this section.

In subsection (b)(1)(i) of this section, the conjunction "or" is substituted for the former conjunction "and" to clarify that the franchise need not necessarily apply to both water and sewerage systems.

Also in subsection (b)(1)(i) of this section, the former references to granting a franchise "to any person" are deleted as surplusage.

In subsection (b)(1)(iii) of this section, the reference to charges and rates "applicable to the franchise" is substituted for the former references to "certain rates and charges" for clarity.

In subsection (b)(1)(iv) of this section, the reference to adopting requirements "for the operation of the franchise" is added for clarity.

Also in subsection (b)(1)(iv) of this section, the former references to providing for the "enforcement of any such measure" are deleted as implicit in the authority to adopt rules, regulations, and licensing requirements.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–705. WASTE COLLECTION AND DISPOSAL.

(A) LEGISLATIVE POLICY.

NOTWITHSTANDING ANY ANTICOMPETITIVE EFFECT, IT IS THE POLICY OF THE STATE TO DIRECT AND AUTHORIZE EACH COUNTY AND MUNICIPALITY TO EXERCISE AUTHORITY OVER WASTE COLLECTION AND DISPOSAL.

(B) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO WASTE THAT THE GENERATOR:

(1) DIRECTS TO A SPECIFIC FACILITY FOR RECLAMATION, RECYCLING, OR REUSE; OR

(2) DISPOSES OF ON ITS PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2A(b)(3), Art. 25, § 3D(b)(3), Art. 25A, § 5A(b)(3), and Art. 25B, § 13B(b)(3).

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference to "its" own property in subsection (b)(2) of this section is ambiguous. The General Assembly may wish to clarify whether it is intended to refer to a generator or a facility.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–706. CONCESSIONS AND LEASES FOR PUBLIC PROPERTY.

(A) LEGISLATIVE POLICY.

IT IS THE POLICY OF THE STATE TO AUTHORIZE EACH COUNTY AND MUNICIPALITY TO DISPLACE OR LIMIT COMPETITION IN THE AWARDING OF CONCESSIONS ON, OVER, OR UNDER PROPERTY OWNED OR LEASED BY THE COUNTY OR MUNICIPALITY AND IN THE LEASING OR SUBLEASING OF PROPERTY OWNED OR LEASED BY THE COUNTY OR MUNICIPALITY TO:

(1) USE ITS ASSETS PROPERLY FOR THE BEST PUBLIC PURPOSE;

(2) PROTECT THE PUBLIC FROM UNSCRUPULOUS BUSINESS PRACTICES AND EXCESSIVE PRICES;

(3) PROVIDE MAXIMUM ACCESSIBILITY TO PUBLIC PROPERTY;

(4) PROVIDE DESIRABLE OR NECESSARY GOVERNMENTAL SERVICES AT THE LOWEST POSSIBLE COST; AND

(5) PROMOTE THE GENERAL WELFARE BY USING PUBLIC PROPERTY FOR THE BENEFIT OF THE RESIDENTS OF THE COUNTY OR MUNICIPALITY.

(B) AUTHORITY.

NOTWITHSTANDING ANY ANTICOMPETITIVE EFFECT, A COUNTY OR MUNICIPALITY MAY:

(1) (I) GRANT ONE OR MORE FRANCHISES FOR ANY CONCESSION ON, OVER, OR UNDER PROPERTY OWNED OR LEASED BY THE COUNTY OR MUNICIPALITY ON AN EXCLUSIVE OR NONEXCLUSIVE BASIS;

(II) CONTROL PRICES AND RATES FOR THE FRANCHISE; AND

(III) ADOPT RULES AND REGULATIONS FOR THE OPERATION OF THE FRANCHISE; AND

(2) LEASE OR SUBLEASE PUBLICLY OWNED OR LEASED REAL PROPERTY ON TERMS THAT THE COUNTY OR MUNICIPALITY DETERMINES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2A(d), Art. 25, § 3D(c), Art. 25A, § 5A(c), and Art. 25B, § 13B(d).

In subsection (a)(3) of this section, the reference to "maximum" accessibility is substituted for the former references to accessibility "by as many citizens as possible" for brevity.

In subsection (a)(5) of this section, the reference to "residents of the county or municipality" is substituted for the former references to "citizens of the community" for clarity and consistency with other similar provisions of the Code.

In subsection (b)(1)(i) of this section, the former references to "displac[ing] or limit[ing] competition" are deleted as duplicative of the policy statement under subsection (a) of this section.

In subsection (b)(1)(ii) of this section, the former references to providing for the "enforcement of any such measure" and "enforcement thereof" are deleted as implicit in the authority to adopt rules and regulations.

In subsection (b)(2) of this section, the reference to "real property" is substituted for the former references to "land[,] improvements to land[,] or both" for brevity.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–707. PORT REGULATION.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO CODE COUNTIES AND MUNICIPALITIES.

(B) LEGISLATIVE POLICY.

IT IS THE POLICY OF THE STATE TO AUTHORIZE EACH CODE COUNTY AND MUNICIPALITY TO DISPLACE OR LIMIT COMPETITION IN THE AREA OF PORT REGULATION TO:

(1) PROVIDE FOR SAFE HARBORS FREE OF CONGESTION AND NAVIGATIONAL HAZARDS;

(2) PROTECT MARINE LIFE AND WILDLIFE; AND

(3) PREVENT WATER POLLUTION AND EROSION.

(C) AUTHORITY.

NOTWITHSTANDING ANY ANTICOMPETITIVE EFFECT, A CODE COUNTY OR MUNICIPALITY MAY:

(1) GRANT ONE OR MORE FRANCHISES OR ENTER INTO CONTRACTS FOR THE PLACEMENT OR CONSTRUCTION OF STRUCTURES IN OR ON THE WATERS OF THE COUNTY OR MUNICIPALITY;

(2) ISSUE LICENSES FOR WHARVES AND PIERS; OR

(3) ISSUE PERMITS FOR MOORING PILES, FLOATING WHARVES, BUOYS, AND ANCHORS.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of the section.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 23A, § 2A(c) and Art. 25B, § 13B(c).

In the introductory language of subsection (b) of this section, the former reference to regulation "undertaken by a board of port wardens pursuant to section 2(b)(23A)(i) of this article" is deleted as an unnecessary cross–reference to the grant of authority to municipalities.

In subsection (b)(2) of this section, the former references to protecting marine life to "provide benefits to … citizens" are deleted as surplusage.

In subsection (c)(1) of this section, the former references to the "erection" of structures are deleted as included in the reference to the "construction" of structures.

Defined terms: "Code county" § 1–101
"Municipality" § 1–101

1–708. CABLE TELEVISION SYSTEM.

(A) "CABLE TELEVISION SYSTEM" DEFINED.

(1) UNLESS OTHERWISE DEFINED BY LOCAL LAW, IN THIS SECTION, "CABLE TELEVISION SYSTEM" MEANS A NONBROADCAST FACILITY THAT CONSISTS OF A SET OF TRANSMISSION PATHS AND ASSOCIATED SIGNAL GENERATION, RECEPTION, AND CENTRAL EQUIPMENT, UNDER COMMON OWNERSHIP AND CONTROL, THAT DISTRIBUTES OR IS DESIGNED TO DISTRIBUTE TO SUBSCRIBERS THE SIGNALS OF ONE OR MORE TELEVISION BROADCAST STATIONS.

(2) "CABLE TELEVISION SYSTEM" DOES NOT INCLUDE A FACILITY THAT:

(I) SERVES 49 OR FEWER SUBSCRIBERS; OR

(II) SERVES ONLY SUBSCRIBERS IN ONE OR MORE MULTIPLE DWELLING UNITS UNDER COMMON OWNERSHIP, CONTROL, OR MANAGEMENT.

(B) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT AUTHORIZE THE GOVERNING BODY OF A COUNTY TO ENACT LAWS OR REGULATIONS FOR A MUNICIPALITY.

(C) AUTHORITY.

THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY MAY:

(1) GRANT A FRANCHISE FOR A CABLE TELEVISION SYSTEM THAT USES A PUBLIC RIGHT–OF–WAY;

(2) IMPOSE FRANCHISE FEES;

(3) ESTABLISH RATES APPLICABLE TO A FRANCHISE; AND

(4) ADOPT RULES AND REGULATIONS FOR THE OPERATION OF A FRANCHISE.

REVISOR'S NOTE: Subsection (a) of this section is new language patterned after Chapter 562, Section 2 of the Acts of the General Assembly of 1982.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 23A, § 2(b)(13) and Art. 25, § 3C.

In subsection (b) and the introductory language of subsection (c) of this section, the references to the "governing body" are substituted for the former references to the "county commissioners" for accuracy in light of Chapter 699 of the Acts of the General Assembly of 2010, which clarified that charter counties and code counties may exercise the authority granted to commission counties under Art. 25 of the Code.

In subsection (c)(1) of this section, the former reference to "exclusive or nonexclusive" franchises is deleted as inconsistent with federal law. The Cable Television Consumer Protection and Competition Act of 1992 prohibits the granting of an "exclusive" franchise. *See* 47 U.S.C. § 541(a)(1). Similarly, in subsection (c)(1) of this section, the former reference to "one or more" is deleted to avoid the implication that an exclusive franchise might be allowed.

Also in subsection (c)(1) of this section, the former reference to a "community antenna system" is deleted as included in the general reference to a "cable television system".

Also in subsection (c)(1) of this section, the former reference to a "highway, street, road, lane, alley, or bridge" is deleted as unnecessary in light of the reference to a "public right–of–way".

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101

1–709. FERRY COMPANY — SOMERSET COUNTY.

(A) IN GENERAL.

NOTWITHSTANDING ANY ANTICOMPETITIVE EFFECT, THE COUNTY COMMISSIONERS OF SOMERSET COUNTY MAY GRANT AN EXCLUSIVE FRANCHISE TO A FERRY COMPANY TO OPERATE BETWEEN SOMERSET COUNTY AND REEDVILLE, VIRGINIA.

(B) REVIEW OF BUSINESS AND FINANCIAL PLAN.

BEFORE GRANTING A FRANCHISE, THE COUNTY COMMISSIONERS OF SOMERSET COUNTY SHALL REVIEW THE PROPOSED BUSINESS AND FINANCIAL PLAN OF THE FERRY COMPANY.

(C) REGULATIONS.

THE COUNTY COMMISSIONERS OF SOMERSET COUNTY MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION THAT ARE CONSISTENT WITH ANY REGULATIONS ADOPTED BY THE PUBLIC SERVICE COMMISSION THAT RELATE TO FERRY COMPANIES.

(D) TIME LIMIT FOR EXERCISING FRANCHISE.

IF THE FERRY COMPANY DOES NOT EXERCISE THE FRANCHISE WITHIN 18 MONTHS AFTER IT IS GRANTED, THE FRANCHISE BECOMES VOID.

(E) GAMING PROHIBITED.

A FERRY COMPANY MAY NOT CONDUCT GAMING ACTIVITIES ON A FERRY THAT IT OPERATES UNDER A FRANCHISE GRANTED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 3D(a)(3).

In subsection (d) of this section, the former reference to a ferry company "[having] up to 18 months to exercise the franchise" is deleted as implicit in the reference to the franchise becoming void if the ferry company does not exercise the franchise "within 18 months after it is granted".

Also in subsection (d) of this section, the former reference to the franchise being "null" is deleted as included in the reference to the franchise becoming "void".

In subsection (e) of this section, the former reference to "gambling" activities is deleted as included in the reference to "gaming" activities.

SUBTITLE 8. PARTICIPATION IN FEDERAL PROJECTS; FEDERAL AID.

1–801. PROJECTS.

(A) "FEDERAL PROJECT" DEFINED.

(1) IN THIS SECTION, "FEDERAL PROJECT" MEANS ANY FEDERAL WORK, IMPROVEMENT, OR PROJECT.

(2) "FEDERAL PROJECT" INCLUDES:

(I) DREDGING PROJECTS;

(II) FLOOD CONTROL PROJECTS; AND

(III) OTHER FEDERAL RIVER, HARBOR, AND NAVIGATION WORKS AND IMPROVEMENTS.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO THE FOLLOWING GOVERNMENTAL ENTITIES:

(1) COUNTIES;

(2) MUNICIPALITIES;

(3) PUBLIC CORPORATIONS;

(4) SPECIAL DISTRICTS; AND

(5) ANY OTHER POLITICAL SUBDIVISIONS.

(C) POWERS.

A GOVERNMENTAL ENTITY MAY:

(1) ASSIST THE UNITED STATES OR A FEDERAL AGENCY IN CONSTRUCTING, FINANCING, MAINTAINING, USING, OR OPERATING A FEDERAL PROJECT, INCLUDING AGREEING TO TERMS OF LOCAL COOPERATION REQUIRED BY THE UNITED STATES OR A FEDERAL AGENCY;

(2) ENTER INTO A CONTRACT WITH THE UNITED STATES OR A FEDERAL AGENCY, IN THE FORM REQUIRED BY THE UNITED STATES OR FEDERAL AGENCY, OBLIGATING THE GOVERNMENTAL ENTITY TO:

(I) CONSTRUCT, FINANCE, MAINTAIN, USE, OR OPERATE A FEDERAL PROJECT; OR

(II) ARRANGE, CONTRACT FOR, OR SUPERVISE THE CONSTRUCTION, FINANCING, MAINTENANCE, USE, OR OPERATION OF A FEDERAL PROJECT;

(3) APPROPRIATE OR OBLIGATE MONEY AND OBTAIN PRIVATE LOANS OR FINANCING TO PAY FOR ITS SHARE OF THE COST OF A FEDERAL PROJECT;

(4) ACCEPT AND USE FEDERAL GRANTS OR LOANS TO ASSIST IN THE CONSTRUCTION, FINANCING, MAINTENANCE, USE, OR OPERATION OF A FEDERAL PROJECT;

(5) PURCHASE OR, IN ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE, CONDEMN LAND AND INTERESTS IN LAND NECESSARY FOR A FEDERAL PROJECT AND TRANSFER ANY INTEREST IN THAT LAND TO THE UNITED STATES OR A FEDERAL AGENCY; AND

(6) ENTER PROPERTY AND WATERS TO CONDUCT SURVEYS, SOUNDINGS, AND EXAMINATIONS IN FURTHERANCE OF A FEDERAL PROJECT.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid repetition of the full reference to "federal work, improvement or project, including dredging or flood control projects or other federal river and harbor and navigation works and improvements" and the references to "such improvements, works, and projects".

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 24, § 6–201.

In subsection (b) of this section, the former reference to "[a]ny county or municipality" and the former definition of "municipality" are combined and revised as a scope provision to clarify the entities to which the section applies and for consistency in the use of the term "municipality" as it is defined in § 1–101 of this article.

In subsection (c) of this section, the former references to "erect[ing]" a project are deleted as included in the references to "construct[ing]" a project.

In the introductory language of subsection (c) of this section, the former phrase "in addition to the powers which it may now have," is deleted as surplusage.

In subsection (c)(1) of this section, the former references to the authority of a county or municipality to "[a]id" and "participate and cooperate with" the United States are deleted as included in the reference to "assist".

In the introductory language of subsection (c)(2) of this section and throughout this subtitle, the former references to "agreements" are deleted as included in the references to "contract[s]".

Also in the introductory language of subsection (c)(2) of this section, the reference to the form required by "the United States or federal agency" is substituted for the former reference to the form required "thereby" for clarity.

Also in the introductory language of subsection (c)(2) of this section, the former references to "execut[ing]" and "perform[ing]" a contract are deleted as included in the reference to "enter[ing] into" a contract.

In subsection (c)(3) of this section, the former reference to a "[l]evy[ing] for" money is deleted as implicit in the reference to "appropriat[ing] or obligat[ing]" money.

In subsection (c)(4) of this section, the reference to federal "grants" is substituted for the former reference to "funds donated" for clarity and consistency with other similar provisions of the Code.

Also in subsection (c)(4) of this section, the former reference to "[r]eceiv[ing]" funds is deleted as included in the reference to "accept[ing]" funds.

Also in subsection (c)(4) of this section, the former reference to "expend[ing]" funds is deleted as included in the reference to "us[ing]" funds.

In subsection (c)(5) of this section, the former references to "rights–of–way" and "easements" are deleted as included in the reference to "interests in land".

Also in subsection (c)(5) of this section, the former references to "convey[ing]" and "leas[ing]" an interest in land are deleted as included in the reference to "transfer[ring]" an interest in land.

In subsection (c)(6) of this section, the reference to "property" is substituted for the former reference to "lands, … and premises" for brevity and consistency with other similar provisions of this article.

Former Art. 24, § 6–201(c), which provided for the effectiveness of any contract entered into before the effective date of the section, is deleted as obsolete because the reenactment referred to dates back to 1963.

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

1–802. LOCAL GOVERNMENT CONTRACTS FOR WATERSHED PROJECTS.

FOR THE PURPOSE OF CONSTRUCTING, FINANCING, MAINTAINING, USING, OR OPERATING A WATERSHED PROJECT, A COUNTY OR MUNICIPALITY MAY ENTER INTO A CONTRACT, INCLUDING AN OBLIGATION OF REPAYMENT UNDER APPLICABLE FEDERAL PUBLIC WORKS AND ECONOMIC DEVELOPMENT PROGRAMS UNDER 42 U.S.C. §§ 3161 AND 3162, WITH:

(1) THE UNITED STATES OR A FEDERAL AGENCY;

(2) A PUBLIC DRAINAGE ASSOCIATION;

(3) A PUBLIC WATERSHED ASSOCIATION; OR

(4) ANY PERSON OR OTHER GOVERNMENTAL ENTITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 6–202.

In the introductory language of this section, the reference to "applicable federal public works and economic development programs" is substituted for the former reference to the "area redevelopment program" in light of the Economic Development Administration Reform Act of 1998, Pub. L. 105–393 (1998), which repealed the Area Redevelopment Program and established new guidelines for federal public works and economic development assistance.

Also in the introductory language of this section, the reference to "a watershed project" is substituted for the former reference to "any works of improvement" for clarity.

Also in the introductory language of this section, the former reference to "Baltimore City" is deleted in light of the reference to the defined term "county".

Also in the introductory language of this section, the former reference to the powers granted in this section being "in addition to the powers which it may now have," is deleted as surplusage.

Also in the introductory language of this section, the former reference to "erecting" a watershed project is deleted as included in the reference to "constructing" a watershed project.

Also in the introductory language of this section, the former reference to including "without limitation" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

Also in the introductory language of this section, the former references to "agreements" and "contracts" of repayment are deleted as included in the reference to "obligations" of repayment.

In item (4) of this section, the reference to "any person or other governmental entity" is substituted for the former reference to "other groups or agencies" for clarity.

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

1–803. LOCAL GOVERNMENT PARTICIPATION IN FEDERAL HOUSING ASSISTANCE PROGRAMS.

(A) CONSTRUCTION OF SECTION.

(1) REGARDLESS OF WHETHER A COUNTY OR MUNICIPALITY HAS ESTABLISHED A HOUSING AUTHORITY UNDER THE HOUSING AUTHORITIES LAW IN DIVISION II OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE, THE POWERS CONFERRED BY THIS SECTION:

(I) ARE IN ADDITION TO ALL OTHER POWERS OF A COUNTY OR MUNICIPALITY; AND

(II) MAY BE EXERCISED DIRECTLY BY A COUNTY OR MUNICIPALITY OR AS OTHERWISE PROVIDED BY THE GOVERNING BODY OF THE COUNTY OR MUNICIPALITY.

(2) THIS SECTION DOES NOT AFFECT ANY POWERS CONFERRED ON A HOUSING AUTHORITY, COUNTY, OR MUNICIPALITY BY THE HOUSING AUTHORITIES LAW IN DIVISION II OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

(B) FEDERAL LOWER–INCOME HOUSING ASSISTANCE PROGRAMS.

A COUNTY OR MUNICIPALITY MAY PARTICIPATE IN FEDERAL LOWER–INCOME HOUSING ASSISTANCE PROGRAMS AND FOR THIS PURPOSE MAY:

(1) ENTER INTO CONTRACTS WITH THE UNITED STATES OR A FEDERAL AGENCY;

(2) ACCEPT AND EXPEND ASSISTANCE PAYMENTS RELATED TO EXISTING, NEWLY CONSTRUCTED, OR SUBSTANTIALLY REHABILITATED HOUSING;

(3) ACT AS A PUBLIC HOUSING AGENCY AS DEFINED IN FEDERAL LAW; AND

(4) DO ALL THINGS NECESSARY OR CONVENIENT TO PARTICIPATE IN THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 6–203.

In subsection (a)(2) of this section, the former reference to "the housing cooperation law" is deleted as obsolete. Chapter 330 of the Acts of the General Assembly of 1990 repealed both Article 44A, "Housing Authorities" and Article 44B, "Housing Cooperation and Aid" and reenacted the provisions of both articles under Article 44A, "Housing Authorities". The provisions relating to housing authorities were again revised in Division II "Housing Authorities" of the Housing and Community Development Article, enacted by Chapter 63, Acts of the General Assembly of 2006.

In subsection (b)(1) of this section, the former reference to "perform[ing]" contracts is deleted as implicit in the reference to "enter[ing] into" contracts.

Also in subsection (b)(1) of this section, the former reference to "agreements" is deleted as included in the reference to "contracts".

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101

1–804. FEDERAL AID INFORMATION.

(A) REGULATIONS.

AFTER CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, THE SECRETARY OF PLANNING SHALL ADOPT REGULATIONS THAT REQUIRE A COUNTY OR MUNICIPALITY TO SUBMIT INFORMATION, AS REQUIRED IN THIS SECTION, ON FEDERAL AID, INCLUDING GRANTS, INSTRUCTIONAL CONTRACTS, LOANS, RESEARCH CONTRACTS, AND OTHER ASSISTANCE.

(B) INSTRUCTIONAL AND RESEARCH AID.

(1) EVERY 6 MONTHS, A COUNTY OR MUNICIPALITY SHALL SUBMIT A SUMMARY NOTICE TO THE DEPARTMENT OF PLANNING IF, DURING THE 6–MONTH PERIOD THAT THE NOTICE COVERS, THE COUNTY OR MUNICIPALITY RECEIVED AN AWARD OF FEDERAL AID IN THE FORM OF AN INSTRUCTIONAL CONTRACT, AN INSTRUCTIONAL GRANT, A RESEARCH CONTRACT, OR A RESEARCH GRANT.

(2) THE SUMMARY NOTICE SHALL STATE THE AMOUNT OF THE AWARD.

(C) OTHER AID.

(1) THIS SUBSECTION DOES NOT APPLY TO AN INSTRUCTIONAL CONTRACT, AN INSTRUCTIONAL GRANT, A RESEARCH CONTRACT, OR A RESEARCH GRANT.

(2) WITHIN 30 DAYS AFTER A COUNTY OR MUNICIPALITY RECEIVES AN AWARD OF FEDERAL AID, THE COUNTY OR MUNICIPALITY SHALL SUBMIT TO THE DEPARTMENT OF PLANNING A SUMMARY NOTICE THAT STATES:

(I) THE AMOUNT OF THE AWARD; AND

(II) IF THE AWARD IS CONDITIONED ON MATCHING FUNDS:

1. THE AMOUNT OF THOSE FUNDS;

2. THE SOURCE OF THOSE FUNDS; AND

3. THE PERIOD FOR WHICH THOSE FUNDS ARE REQUIRED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 6–301.

In this section, the references to "county or municipality" are substituted for the former references to "local government" for clarity and consistency throughout this article.

In subsection (a) of this section, the reference to the "Secretary" of Planning is substituted for the former reference to the "Director" of Planning in light of § 5–202(b) of the State Finance and Procurement Article, which provides that the head of the Department of Planning is the Secretary of Planning.

SUBTITLE 9. COOPERATION AMONG POLITICAL SUBDIVISIONS.

1–901. ASSISTANCE TO OTHER POLITICAL SUBDIVISIONS AUTHORIZED.

THE GOVERNING BODY OF A COUNTY OR A MUNICIPALITY MAY PROVIDE MATERIALS, SERVICES, OR OTHER ASSISTANCE TO ANOTHER POLITICAL SUBDIVISION FOR A PUBLIC PURPOSE AND FOR MUTUAL BENEFIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 219 and Art. 23A, § 8C(a).

The reference to "a public purpose and for mutual benefit" is substituted for the former references to "purposes deemed to be public and of benefit to the municipal corporation and the other political subdivision" and "purposes deemed to be public and of benefit to the county and the other political subdivision" for brevity.

The former references to a county or municipality's authority to "lend" assistance to another political subdivision is deleted as included in the authority to "provide" assistance.

The former references to assistance being given "upon such terms as may be agreed upon" are deleted as implicit in the authority granted.

The former references to "tools", "vehicles", "implements", and "consultants" are deleted as included in the reference to "materials, services, or other assistance".

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101

1–902. COOPERATION IN PERFORMING GOVERNMENTAL FUNCTIONS AND ACCEPTANCE OF FUNDS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO ALL COUNTIES EXCEPT:

(1) ANNE ARUNDEL COUNTY;

(2) BALTIMORE CITY;

(3) BALTIMORE COUNTY;

(4) CECIL COUNTY;

(5) HOWARD COUNTY;

(6) PRINCE GEORGE'S COUNTY; AND

(7) QUEEN ANNE'S COUNTY.

(B) COOPERATIVE PERFORMANCE OF GOVERNMENTAL FUNCTIONS.

THE GOVERNING BODY OF A COUNTY MAY CONTRACT WITH ANOTHER GOVERNMENTAL ENTITY FOR THE JOINT OR COOPERATIVE PERFORMANCE OF ANY GOVERNMENTAL FUNCTION.

(C) FEDERAL AND STATE GRANTS.

THE GOVERNING BODY OF A COUNTY MAY:

(1) ACCEPT ANY GIFT OR GRANT FROM THE FEDERAL OR STATE GOVERNMENT OR ANY UNIT OF FEDERAL OR STATE GOVERNMENT; AND

(2) USE THE GIFT OR GRANT FOR ANY LAWFUL PURPOSE FOR WHICH IT WAS RECEIVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 3(y) and, as it related to the scope of this section, (a).

In subsection (b) of this section, the reference to "another governmental entity" is substituted for the former reference to "municipalities, counties, districts, bureaus, commissions, and governmental authorities" for brevity.

In subsection (c)(1) of this section, the former reference to gifts or grants "of federal or of State funds" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to any lawful purpose "for which [the gift or grant was] received" is substituted for the former reference to any lawful purpose "agreeably to the conditions under which the gifts or grants were made" for brevity and clarity.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"State" § 1–101

1–903. COOPERATION IN CONSERVING BALTIMORE CITY WATER.

(A) RESTRICTION ON USE OF WATER.

ON REQUEST OF THE DIRECTOR OF THE BALTIMORE CITY DEPARTMENT OF PUBLIC WORKS, THE GOVERNING BODIES OF ANNE ARUNDEL COUNTY, BALTIMORE COUNTY, OR HOWARD COUNTY SHALL RESTRICT THE USE OF WATER SUPPLIED BY BALTIMORE CITY TO ANY PERSON OR PROPERTY LOCATED IN THE COUNTY:

(1) TO THE SAME EXTENT RESTRICTIONS ARE IMPOSED ON THE USE OF WATER BY CONSUMERS IN BALTIMORE CITY WHEN THERE IS A SHORTAGE OF WATER; OR

(2) IN LIMITED AREAS WHEN REQUIRED DUE TO DEFICIENCIES IN THE WATER DISTRIBUTION SYSTEM SERVING THE LIMITED AREAS UNDER CONDITIONS APPROVED BY THE RECEIVING COUNTY.

(B) PRIOR DETERMINATION REQUIRED.

BEFORE THE IMPOSITION OF A WATER RESTRICTION IN A LIMITED AREA OF ANNE ARUNDEL COUNTY, BALTIMORE COUNTY, OR HOWARD COUNTY, THE DIRECTOR OF THE BALTIMORE CITY DEPARTMENT OF PUBLIC WORKS SHALL DETERMINE THAT THE UNRESTRICTED USE OF WATER IN ALL OTHER AREAS OF THE COUNTY WILL HAVE NO DETRIMENTAL EFFECT ON THE RESTRICTED USE AREA.

(C) RELATED LAWS AND REGULATIONS.

THE GOVERNING BODIES OF ANNE ARUNDEL COUNTY, BALTIMORE COUNTY, AND HOWARD COUNTY MAY PASS ANY ORDINANCE, RESOLUTION, RULE, OR REGULATION NECESSARY TO IMPOSE AND ENFORCE A WATER RESTRICTION UNDER THIS SUBTITLE AND PROVIDE PENALTIES FOR THE VIOLATION OF A RESTRICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 168.

Throughout this section, the reference to the "Director of the Baltimore City Department of Public Works" is substituted for the former reference to the "water engineer of the Mayor and City Council of Baltimore" for accuracy.

Also throughout this section, the former references to the "Anne Arundel [County] Sanitary Commission" are deleted as obsolete. The Commission no longer exists. Its functions have been taken over by the Anne Arundel County Department of Public Works.

In the introductory language of subsection (a) of this section, the reference to water supplied by "Baltimore City" is substituted for the former reference to water supplied by "the Mayor and City Council of Baltimore" for brevity.

Also in the introductory language of subsection (a) of this section, the former reference to the county councils "acting for and within the boundaries of their respective counties" is deleted as implicit in the limitation on a county's jurisdiction.

Also in the introductory language of subsection (a) of this section, the former reference to water "furnished" is deleted as included in the reference to water "supplied".

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

In subsection (a)(2) of this section, the former reference to "appurtenances" is deleted as included in the reference to a "water distribution system".

Also in subsection (a)(2) of this section, the former reference to conditions approved by the county's "duly authorized representative" is deleted as implicit.

Also in subsection (a)(2) of this section, the reference to the "receiving county" is substituted for the former reference to the "county [commissioners] of the aforementioned respective counties" for brevity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that, because of the general grant of authority to counties under the Express Powers Act, the grant of authority in subsection (c) of this section may be unnecessary. Accordingly, the

General Assembly may wish to consider repealing subsection (c) of this section.

Defined terms: "Governing body" § 1–101
"Person" § 1–101

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 25, § 3(cc), which authorized Dorchester County to make appropriations to municipalities, is deleted as obsolete because Dorchester County became a charter county in 2002 and the authority granted in the subsection is inherent in the general authority granted to charter counties to appropriate funds. *See City of Annapolis v. Anne Arundel County, Maryland* 347 Md. 1 (1997), which held that the authority to appropriate revenue is "implicit in Article XI–A" and an "inherent power of all Maryland counties".

SUBTITLE 10. HOSPITALS AND RELATED FACILITIES.

PART I. HOSPITALS.

1–1001. HOSPITALS AND FACILITIES FOR CARE OF SICK.

(A) ESTABLISHMENT AUTHORIZED.

A COUNTY OR MUNICIPALITY MAY ESTABLISH A HOSPITAL OR OTHER FACILITY FOR THE CARE OF THE SICK BY:

(1) BUILDING OR CONTRACTING FOR THE USE OF A FACILITY; OR

(2) JOINING WITH ANOTHER COUNTY OR MUNICIPALITY TO ESTABLISH A JOINT FACILITY.

(B) RECOVERY OF EXPENSES INCURRED IN PATIENT CARE.

A COUNTY OR MUNICIPALITY MAY RECOVER THE EXPENSES INCURRED BY A HOSPITAL OR ANOTHER FACILITY IN CARING FOR A PATIENT WHO IS NOT INDIGENT:

(1) FROM THE PATIENT, WITHIN 3 YEARS AFTER THE PATIENT IS DISCHARGED FROM THE FACILITY; OR

(2) FROM THE ESTATE OF THE PATIENT, IF THE PATIENT DIES IN THE FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 252.

In the introductory language of subsection (a) of this section, the reference to "other facility for the care of the sick" is substituted for the defined term "reception center" for clarity. Correspondingly, throughout this section, the references to "facility" are substituted for the former references to "hospital" and "reception center" for brevity and clarity.

Also in the introductory language of subsection (a) of this section, the former reference to the "temporary" care of the sick is deleted as being too limiting on the general purposes of a hospital or other care facility.

Also in the introductory language of subsection (a) of this section, the former reference to a county or municipality establishing a facility "for its inhabitants" is deleted as too limiting.

In subsection (a)(2) of this section, the reference to a "joint facility" is substituted for the former reference to a "common hospital" for clarity.

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

1–1002. HOSPITAL RUN BY POLITICAL SUBDIVISION.

A HOSPITAL, AS DEFINED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE, THAT IS OPERATED BY A POLITICAL SUBDIVISION MAY ACCEPT A VALID CREDIT CARD AS PAYMENT FOR A BILL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 253.

The former reference to a "municipal" political subdivision is deleted in light of the general reference to a "political subdivision".

1–1003. RESERVED.

1–1004. RESERVED.

PART II. CITIZENS NURSING HOME BOARDS.

1–1005. "BOARD" DEFINED.

IN THIS PART, "BOARD" MEANS A CITIZENS NURSING HOME BOARD.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full reference to a "citizens nursing home board".

1–1006. ESTABLISHMENT OF CITIZENS NURSING HOME BOARDS.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF A COUNTY MAY ESTABLISH A CITIZENS NURSING HOME BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 254(a).

Defined term: "County" § 1–101

1–1007. MEMBERSHIP.

(A) COMPOSITION.

(1) (I) EXCEPT AS PROVIDED IN SUBSECTION (D)(1) OF THIS SECTION, A BOARD CONSISTS OF 10 MEMBERS.

(II) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY SHALL APPOINT THE INITIAL MEMBERS OF THE BOARD FOR THE FOLLOWING TERMS:

1. THREE MEMBERS FOR 3 YEARS;

2. THREE MEMBERS FOR 2 YEARS; AND

3. THREE MEMBERS FOR 1 YEAR.

(III) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT ONE OF ITS MEMBERS TO BE AN EX OFFICIO MEMBER OF THE BOARD.

(2) EACH MEMBER OF THE BOARD SHALL BE A RESIDENT OF THE COUNTY.

(B) TENURE; VACANCIES.

EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D)(3) OF THIS SECTION, A SUCCESSOR MEMBER SHALL BE ELECTED BY A MAJORITY VOTE OF THE BOARD FOR:

(1) A TERM OF 3 YEARS IF A TERM EXPIRES; OR

(2) THE REST OF THE TERM IF A TERM IS VACATED.

(C) FREDERICK COUNTY.

THE COUNTY COMMISSIONERS OF FREDERICK COUNTY SHALL APPOINT A SUCCESSOR MEMBER FOR:

(1) A TERM OF 3 YEARS IF A TERM EXPIRES; OR

(2) THE REST OF THE TERM IF A TERM IS VACATED.

(D) ST. MARY'S COUNTY.

(1) IN ST. MARY'S COUNTY, THE BOARD CONSISTS OF AT LEAST 10 BUT NOT MORE THAN 15 MEMBERS.

(2) (I) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY MAY CREATE NEW POSITIONS ON THE BOARD.

(II) THE COUNTY COMMISSIONERS SHALL SET THE TERM FOR EACH NEW POSITION TO:

1. 3 YEARS OR LESS; AND

2. ENSURE BALANCED STAGGERING OF THE EXPIRATION OF THE TERMS OF ALL MEMBERS.

(3) THE COUNTY COMMISSIONERS SHALL APPOINT A SUCCESSOR MEMBER FOR:

(I) A TERM OF 3 YEARS IF A TERM EXPIRES; OR

(II) THE REST OF THE TERM IF A TERM IS VACATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 254(b).

In subsection (a)(1)(iii) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsections (b), (c), and (d) of this section, the former phrase "as the terms of the initial appointees expire or as vacancies occur" is deleted as surplusage.

Also in subsections (b), (c), and (d) of this section, the references to a successor "member" are added for clarity.

In subsection (b) of this section, the former phrase "hereafter, these positions shall be so filled" is deleted as surplusage.

In the introductory language of subsection (b) of this section, the former reference to a member being elected by "quorum" is deleted as included in the reference to a member being elected by "majority vote".

In subsection (b)(1) of this section, the reference to a 3–year term "if a term expires" is new language added for clarity, and consistency with subsections (c)(1) and (d)(3)(i) of this section.

In subsection (b)(2) of this section, the reference to the "rest of the term if a term is vacated" is substituted for the former reference to the "remainder thereof" for clarity, and consistency with subsections (c)(2) and (d)(3)(ii) of this section.

In subsection (d)(2)(i) of this section, the reference to the county commissioners "creat[ing]" new positions is substituted for the former reference to the county commissioners "approv[ing]" new positions for clarity.

In subsection (d)(2)(ii) of this section, the former reference to positions being "initially filled by appointment by the county commissioners" is deleted as surplusage.

Defined terms: "Board" § 1–1005
"County" § 1–101

1–1008. CHAIR.

(A) IN GENERAL.

THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(B) TENURE.

THE BOARD SHALL DETERMINE THE TERM OF OFFICE OF THE CHAIR.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 25, § 254(e).

In subsection (b) of this section, the reference to the board determining "the term of office of the chair" is substituted for the former reference to the chairman serving "for any period it may designate" for consistency with other similar provisions of the Code.

Defined term: "Board" § 1–1005

1–1009. MEETINGS; COMPENSATION.

(A) MEETINGS.

THE BOARD SHALL MEET AT LEAST ONCE A MONTH TO CONDUCT ITS BUSINESS.

(B) COMPENSATION.

A MEMBER OF THE BOARD SERVES WITHOUT COMPENSATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 254(c) and the second sentence of (e).

In subsection (a) of this section, the former reference to the board holding meetings "as may be necessary for the proper" conduct of business is deleted as implicit in the requirement to hold a meeting.

Defined term: "Board" § 1–1005

1–1010. POWERS AND DUTIES.

(A) ESTABLISHMENT OF NURSING HOME.

THE BOARD SHALL ESTABLISH, MAINTAIN, AND OPERATE A NURSING HOME OR OTHER FACILITY OR SERVICE FOR THE CARE AND TREATMENT OF AGED, CONVALESCENT, AND CHRONICALLY ILL INDIVIDUALS.

(B) IN GENERAL.

THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

(1) (I) TO ACCEPT GIFTS, LEGACIES, BEQUESTS, OR ENDOWMENTS FOR PURPOSES OF THE BOARD; AND

(II) UNLESS OTHERWISE SPECIFIED BY THE DONOR, IN THE DISCRETION OF THE BOARD, TO SPEND BOTH PRINCIPAL AND INCOME OF A GIFT, LEGACY, BEQUEST, OR ENDOWMENT FOR THE PURPOSES OF THE BOARD;

(2) (I) TO ACQUIRE AND HOLD PROPERTY IN THE NAME OF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY;

(II) TO PRESERVE AND ADMINISTER PROPERTY ACQUIRED BY THE BOARD; AND

(III) TO SELL OR OTHERWISE DISPOSE OF PROPERTY ACQUIRED BY THE BOARD;

(3) TO PROVIDE ADEQUATE FACILITIES AND SERVICES FOR THE CARE AND TREATMENT OF AGED, CONVALESCENT, AND CHRONICALLY ILL INDIVIDUALS, INCLUDING:

(I) PHYSICAL CARE;

(II) MEDICAL CARE;

(III) NURSING CARE;

(IV) RECREATIONAL SERVICES;

(V) REHABILITATIVE SERVICES;

(VI) SPECIAL EDUCATION; AND

(VII) DISSEMINATION OF INFORMATION RELATING TO CAUSES AND PREVENTION OF CHRONIC AND DEBILITATING ILLNESSES;

(4) (I) SUBJECT TO ITEM (II) OF THIS ITEM, TO CHARGE FEES FOR ADMISSION TO AND MAINTENANCE IN A FACILITY AND FOR SERVICES PROVIDED; AND

(II) TO CHARGE FEES TO INDIGENT INDIVIDUALS IN DIRECT PROPORTION TO THE INDIVIDUAL'S ABILITY TO PAY;

(5) TO APPLY TO THE PURPOSES OF THE BOARD ALL MONEY, ASSETS, OR PROPERTY THE BOARD RECEIVES;

(6) TO ADOPT RULES AND REGULATIONS FOR THE BOARD'S FACILITIES AND SERVICES;

(7) TO COOPERATE WITH AND ASSIST, AS MUCH AS PRACTICABLE, ANY UNIT OF THE STATE, THE UNITED STATES, ANY SUBDIVISION OF EITHER, OR ANY PERSON;

(8) TO HIRE A DIRECTOR OF ANY FACILITY OR SERVICE AND TO PROVIDE FOR ADDITIONAL EMPLOYEES AND THE QUALIFICATIONS AND WAGES OF THE EMPLOYEES;

(9) TO REQUIRE ANY FACILITY OR SERVICE TO MAINTAIN STANDARDS TO QUALIFY FOR A LICENSE AS A HOSPITAL UNDER TITLE 19, SUBTITLE 3, PART III OF THE HEALTH – GENERAL ARTICLE; AND

(10) TO INTEGRATE EACH OF THE BOARD'S FACILITIES WITH THOSE OF THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 254(d).

In this section, the references to treating "individuals" are substituted for the former references to treating "residents of the county", "citizens of the county", or "residents" because the latter references would be too limiting in that the facilities would not be allowed to care for nonresidents.

In subsection (a) of this section, the former reference to a "convalescent" home is deleted in light of the reference to "other facility".

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

Also in subsection (a) of this section, the former references to facilities and services "necessary" for the "proper" care and treatment are deleted as implicit in the requirement for care.

In subsection (b)(1)(ii) of this section, the reference to income being spent "for the purposes of the board" is substituted for the former reference to income being spent "to support the board's nursing home program" for consistency with other similar provisions of this subsection.

Also in subsection (b)(1)(ii) of this section, the former reference to the donor "making such gift, legacy, bequest or endowment" is deleted as surplusage.

In subsection (b)(2)(i) of this section, the reference to the county commissioners or "county council" is added for consistency with § 1–1006 of this subtitle.

Also in subsection (b)(2)(i) of this section, the former reference to "real and personal" property is deleted as included in the reference to "property".

Also in subsection (b)(2)(i) of this section, the former reference to acquiring and holding property "by any means" is deleted as surplusage.

In subsection (b)(3) of this section, the former reference to services including "other similar activities" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In subsection (b)(3)(ii) and (iii) of this section, the references to medical and nursing "care" are added for clarity. Similarly, in subsection (b)(3)(iv) and (v) of this section, the references to recreational and rehabilitative "services" are added.

In subsection (b)(4)(i) of this section, the reference to charging fees for "services provided" is substituted for the former reference to charging fees for "use of such services as may support the facilities and services" for brevity.

In subsection (b)(4)(ii) of this section, the reference to "indigent" individuals is substituted for the former reference to individuals "sufficiently impecunious as to be unable to pay the full costs of such care" for brevity and clarity.

Also in subsection (b)(4)(ii) of this section, the former phrase "where aged, convalescent, and chronically ill residents of the county are in need of such facilities and services" is deleted as surplusage.

Also in subsection (b)(4)(ii) of this section, the former reference to an individual's ability to pay "for the services" is deleted as surplusage.

In subsection (b)(5) of this section, the former reference to the board receiving "other things of value" is deleted as included in the reference to "assets".

In subsection (b)(6) of this section, the former reference to adopting rules and regulations "subject to the terms of this section" is deleted as implicit because the rules would need to comply with the authority granted in the section.

Also in subsection (b)(6) of this section, the former reference to rules and regulations "as may be necessary for their proper operation" is deleted as implicit in the requirement to adopt rules and regulations.

In subsection (b)(7) of this section, the reference to a "unit" is substituted for the former reference to an "agency" for consistency with other revised articles of the Code. *See* General Revisor's Note to article.

Also in subsection (b)(7) of this section, the former reference to a "private agency" is deleted as included in the reference to a "person".

Also in subsection (b)(7) of this section, the former reference to cooperating with certain entities "in furtherance of any of the purposes of this section" is deleted as implicit.

In subsection (b)(8) and (9) of this section, the former references to a facility or service "that it establishes" are deleted as surplusage.

In subsection (b)(8) of this section, the former reference to providing for qualifications and wages of employees "as are necessary to properly operate such facilities" is deleted as implicit in the authority to operate the facilities.

In subsection (b)(10) of this section, the former reference to "accept[ing] funds from, and cooperat[ing] with" the Secretary of Health and Mental Hygiene is deleted as unnecessary in light of subsection (b)(7) of this section.

Also in subsection (b)(10) of this section, the former reference to integrating facilities "in any facet or facets of its operations insofar as deemed advisable by this board" is deleted as implicit.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference in subsection (b)(2)(iii) of this section to the county commissioners and the county council of a county selling or otherwise disposing of property acquired by the board is inconsistent in that it appears to authorize the county commissioners and the county council to sell property to which it does not hold title.

Defined terms: "Board" § 1–1005
"County" § 1–101
"Person" § 1–101
"State" § 1–101

1–1011. RULES.

THE BOARD SHALL ADOPT RULES TO GOVERN ITS OPERATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 25, § 254(e).

The reference to adopting rules "to govern its operations" is substituted for the former reference to adopting rules "as are necessary for the internal regulation of the board" for brevity.

The former reference to adopting rules "subject to the terms of this section" is deleted as implicit that the rules would need to comply with the authority granted in the section.

Defined term: "Board" § 1–1005

1–1012. FUNDING.

(A) IN GENERAL.

AS MUCH AS POSSIBLE, THE ACTIVITIES OF THE BOARD SHALL BE SUPPORTED BY THE PUBLIC, VOLUNTARY CONTRIBUTIONS, FEES AND CHARGES, AND PAYMENTS FROM THE STATE AND FEDERAL GOVERNMENT.

(B) ANNUAL APPROPRIATIONS AND BORROWED FUNDS.

TO MAINTAIN AN ADEQUATE LEVEL OF MEDICAL AND NURSING CARE FOR AGED, CONVALESCENT, AND CHRONICALLY ILL INDIVIDUALS, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF A COUNTY MAY:

(1) MAKE ANNUAL APPROPRIATIONS TO SUPPORT THE OPERATIONS OF THE BOARD; AND

(2) MAKE APPROPRIATIONS OR BORROW FUNDS FOR LAND ACQUISITION AND CAPITAL IMPROVEMENTS AND ISSUE BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 254(f).

In subsection (a) of this section, the reference to activities being supported by "the public" is substituted for the former reference to "citizen" support for clarity and consistency with the terminology used throughout this article.

In the introductory language of subsection (b) of this section, the reference to medical and nursing care for "individuals" is substituted for the former reference to care for "citizens of the county" because the latter would be too limiting in that the facilities would not be allowed to care for nonresidents.

Defined terms: "Board" § 1–1005
"County" § 1–101
"State" § 1–101

1–1013. REPORTING REQUIREMENTS.

THE BOARD SHALL REPORT ANNUALLY TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY ON THE ACTIVITIES OF THE BOARD DURING THE PRECEDING YEAR, INCLUDING ANY RECOMMENDATIONS OR REQUESTS THE BOARD CONSIDERS APPROPRIATE TO ACHIEVE THE OBJECTIVES AND PURPOSES OF THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 254(g).

Defined terms: "Board" § 1–1005
"County" § 1–101

1–1014. FREDERICK COUNTY.

IN ADDITION TO THE AUTHORITY PROVIDED IN THIS PART, THE COUNTY COMMISSIONERS OF FREDERICK COUNTY MAY ESTABLISH, MAINTAIN, AND OPERATE A NURSING HOME OR OTHER FACILITY OR SERVICE FOR THE CARE AND TREATMENT OF AGED, CONVALESCENT, AND CHRONICALLY ILL INDIVIDUALS IN FREDERICK COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 254(h).

The former reference to a "convalescent" home is deleted as included in the reference to "other facility".

The former reference to "homes" is deleted in light of the reference to "home" and Art. 1, § 8, which provides that the singular generally includes the plural.

The former reference to "proper" care and treatment is deleted as implicit in the requirement for care.

1–1015. RESERVED.

1–1016. RESERVED.

PART III. COUNTY CONTRIBUTIONS.

1–1017. CONTRIBUTIONS ESTABLISHED.

(A) IN GENERAL.

(1) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF A COUNTY MAY COOPERATE, CONSISTENT WITH THIS SUBTITLE, FOR THE CONSTRUCTION OR RECONSTRUCTION OF HOSPITALS OR RELATED FACILITIES BY CONTRIBUTING UP TO ONE–THIRD OF THE COST OF ANY HOSPITAL OR RELATED FACILITY.

(2) TO PAY THE COUNTY CONTRIBUTION UNDER THIS SUBSECTION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY:

(I) USE GENERAL FUND REVENUES OF THE COUNTY; OR

(II) WITHIN THE LIMITS OF ANY RESTRICTION ON THE BORROWING POWER OF THE COUNTY, ISSUE BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS, PLEDGING THE FULL FAITH AND CREDIT OF THE COUNTY TO THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS, NOTES, OR EVIDENCE OF INDEBTEDNESS.

(3) FOR THE PURPOSES OF THIS SUBSECTION, THE SECRETARY OF HEALTH AND MENTAL HYGIENE, AS THE SOLE UNIT TO REPRESENT THE STATE, SHALL COOPERATE WITH THE COUNTY.

(B) KENT COUNTY.

(1) THE COUNTY COMMISSIONERS OF KENT COUNTY MAY COOPERATE, CONSISTENT WITH THIS SUBTITLE, FOR THE CONSTRUCTION OF A NURSING HOME OR RELATED FACILITIES BY CONTRIBUTING UP TO ONE–THIRD OF THE COST OF THE NURSING HOME OR RELATED FACILITIES.

(2) A NURSING HOME CONSTRUCTED UNDER THIS SUBSECTION SHALL HAVE AT LEAST 25 BEDS.

(3) TO PAY THE COUNTY CONTRIBUTION UNDER THIS SUBSECTION, THE COUNTY COMMISSIONERS MAY:

(I) USE GENERAL FUND REVENUES OF THE COUNTY; OR

(II) WITHIN THE LIMITS OF ANY RESTRICTION ON THE BORROWING POWER OF THE COUNTY, ISSUE BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS, PLEDGING THE FULL FAITH AND CREDIT OF THE COUNTY TO THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS, NOTES, OR EVIDENCE OF INDEBTEDNESS.

(4) FOR THE PURPOSES OF THIS SUBSECTION, THE SECRETARY OF HEALTH AND MENTAL HYGIENE, AS THE SOLE UNIT TO REPRESENT THE STATE, SHALL COOPERATE WITH THE COUNTY COMMISSIONERS.

(C) SOMERSET COUNTY.

(1) THE COUNTY COMMISSIONERS OF SOMERSET COUNTY SHALL COOPERATE, CONSISTENT WITH THIS SUBTITLE, FOR THE CONSTRUCTION OF A NURSING HOME HOSPITAL OR RELATED FACILITIES BY CONTRIBUTING UP TO $200,000 OF THE COST OF ANY NURSING HOME HOSPITAL OR RELATED FACILITIES.

(2) A NURSING HOME HOSPITAL CONSTRUCTED UNDER THIS SUBSECTION SHALL:

(I) HAVE 60 BEDS;

(II) BE LOCATED IN THE TOWN OF CRISFIELD, ON THE SAME GROUNDS AS MCCREADY HOSPITAL;

(III) HAVE A CORRIDOR CONNECTING IT TO MCCREADY HOSPITAL; AND

(IV) BE KNOWN AS THE ALICE BYRD TAWES NURSING HOME.

(3) TO PAY THE COUNTY CONTRIBUTION UNDER THIS SUBSECTION, THE COUNTY COMMISSIONERS MAY:

(I) USE GENERAL FUND REVENUES OF THE COUNTY; OR

(II) WITHIN THE LIMITS OF ANY RESTRICTION ON THE BORROWING POWER OF THE COUNTY, ISSUE BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS, PLEDGING THE FULL FAITH AND CREDIT OF THE

COUNTY TO THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS, NOTES, OR EVIDENCE OF INDEBTEDNESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 255.

In the introductory language of subsections (a)(2), (b)(3), and (c)(3) of this section, the phrase "[t]o pay the county contribution under this subsection" is substituted for the former phrase "[f]or this purpose" for clarity.

In subsections (a)(2)(i), (b)(3)(i), and (c)(3)(i) of this section, the references to the county commissioners or county council "us[ing] general fund revenues" of the county are substituted for the former references to "levy[ing] or appropriat[ing] from the general funds" of the county for brevity.

In subsections (a)(2)(ii), (b)(3)(ii), and (c)(3)(ii) of this section, the references to "notes" are added for consistency with other similar provisions.

Also in subsections (a)(2)(ii), (b)(3)(ii), and (c)(3)(ii) of this section, the references to the "principal of and interest on the bonds, notes, or evidence of indebtedness" are substituted for the former references to the "interest and principal thereon" for clarity.

In subsection (a)(2)(ii) of this section, the former reference to "secur[ing] the payment of this sum" is deleted as surplusage. Similarly, in subsections (b)(3)(ii) and (c)(3)(ii) of this section, the former references to "secur[ing] the necessary moneys or any portion thereof" by issuing bonds are deleted.

In subsections (a)(3) and (b)(4) of this section, the references to the "unit" are substituted for the former references to the "agency" for consistency with other revised articles of the Code. *See* General Revisor's Note to article.

Also in subsections (a)(3) and (b)(4) of this section, the former references to the Secretary of Health and Mental Hygiene "represent[ing]" the county are deleted as contradictory with the direction that the Secretary shall represent the State and cooperate with the county.

In subsection (c)(2)(ii) of this section, the former reference to McCready Hospital being "in that town" is deleted as surplusage.

In subsection (c)(2)(ii) and (iii) of this section, the former reference to the nursing home hospital "adjoining" McCready Hospital is deleted as

implicit in the reference to its being on the same grounds as McCready Hospital and connected by a corridor to McCready Hospital.

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

SUBTITLE 11. CLEAN ENERGY LOAN PROGRAMS.

1–1101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 9–1501(a).

No changes are made.

(B) BOND.

"BOND" MEANS A BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT A COUNTY OR MUNICIPALITY ISSUES UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 24, § 9–1501(b).

The only changes are in style.

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

(C) CHIEF EXECUTIVE.

"CHIEF EXECUTIVE" MEANS THE PRESIDENT, CHAIR, MAYOR, COUNTY EXECUTIVE, OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A COUNTY OR MUNICIPALITY.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 9–1501(c).

The only changes are in style.

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

(D) PROGRAM.

"PROGRAM" MEANS A CLEAN ENERGY LOAN PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 24, § 9–1501(e).

The reference to a program "established under this subtitle" is added to clarify that each program is a separate program established as authorized by this subtitle.

REVISOR'S NOTE TO SECTION:

Former Art. 24, § 9–1501(d), which defined "political subdivision" to mean a county or a municipality, is deleted because the term is no longer used as defined in former Art. 24, § 9–1501(d) in this subtitle. The specific reference to "county or municipality" is used throughout this subtitle to conform to the terminology used in this article.

1–1102. AUTHORITY TO ESTABLISH PROGRAM.

A COUNTY OR MUNICIPALITY MAY ENACT AN ORDINANCE OR A RESOLUTION TO ESTABLISH A CLEAN ENERGY LOAN PROGRAM.

REVISOR'S NOTE: This section formerly was Art. 24, § 9–1502(a).

The only changes are in style.

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

1–1103. PURPOSE OF PROGRAM.

THE PURPOSE OF A PROGRAM IS TO PROVIDE LOANS TO:

(1) RESIDENTIAL PROPERTY OWNERS, INCLUDING LOW INCOME RESIDENTIAL PROPERTY OWNERS, TO FINANCE ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECTS; AND

(2) COMMERCIAL PROPERTY OWNERS TO FINANCE:

(I) ENERGY EFFICIENCY PROJECTS; AND

(II) RENEWABLE ENERGY PROJECTS WITH AN ELECTRIC GENERATING CAPACITY OF NOT MORE THAN 100 KILOWATTS.

REVISOR'S NOTE: This section formerly was Art. 24, § 9–1502(b).

The only changes are in style.

Defined term: "Program" § 1–1101

1–1104. REQUIREMENTS FOR ORDINANCE OR RESOLUTION.

(A) IN GENERAL.

AN ORDINANCE OR RESOLUTION ENACTED UNDER § 1–1102 OF THIS SUBTITLE SHALL PROVIDE FOR:

(1) ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM, INCLUDING ELIGIBILITY REQUIREMENTS FOR:

(I) ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY DEVICES; AND

(II) PROPERTY AND PROPERTY OWNERS; AND

(2) LOAN TERMS AND CONDITIONS.

(B) ELIGIBILITY REQUIREMENTS TO INCLUDE ABILITY TO REPAY LOAN.

ELIGIBILITY REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE A REQUIREMENT THAT THE COUNTY OR MUNICIPALITY GIVE DUE REGARD TO THE PROPERTY OWNER'S ABILITY TO REPAY A LOAN PROVIDED UNDER THE PROGRAM, IN A MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A MORTGAGE LOAN UNDER §§ 12–127, 12–311, 12–409.1, 12–925, AND 12–1029 OF THE COMMERCIAL LAW ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 24, § 9–1502(e).

The only changes are in style.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"Program" § 1–1101

1–1105. SURCHARGE REQUIRED.

(A) IN GENERAL.

A PROGRAM SHALL REQUIRE A PROPERTY OWNER TO REPAY A LOAN PROVIDED UNDER THE PROGRAM THROUGH A SURCHARGE ON THE OWNER'S PROPERTY TAX BILL.

(B) LIMIT ON SURCHARGE.

A COUNTY OR MUNICIPALITY MAY NOT SET A SURCHARGE GREATER THAN AN AMOUNT THAT ALLOWS THE COUNTY OR MUNICIPALITY TO RECOVER THE COSTS ASSOCIATED WITH:

(1) ISSUING BONDS TO FINANCE THE LOAN; AND

(2) ADMINISTERING THE PROGRAM.

(C) OBLIGATION TO PAY SURCHARGE.

A PERSON WHO ACQUIRES PROPERTY SUBJECT TO A SURCHARGE UNDER THIS SECTION ASSUMES THE OBLIGATION TO PAY THE SURCHARGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 9–1502(c) and (d).

In the introductory language of subsection (b) of this section, the reference to a "county or municipality" is added to clarify who sets the surcharge.

In subsection (c) of this section, the former reference to the acquisition of property ", whether by purchase or other means," is deleted as implicit in the reference to the "acqui[sition]" of property.

Defined terms: "Bond" § 1–1101
"County" § 1–101
"Municipality" § 1–101
"Person" § 1–101
"Program" § 1–1101

1–1106. BONDS — GENERAL AUTHORITY.

(A) AUTHORITY TO ISSUE.

A COUNTY OR MUNICIPALITY MAY ISSUE BONDS TO FINANCE LOANS MADE THROUGH A PROGRAM.

(B) ORDINANCE OR RESOLUTION REQUIRED.

TO ISSUE A BOND, A COUNTY OR MUNICIPALITY SHALL ADOPT AN ORDINANCE OR A RESOLUTION THAT SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BOND.

(C) OPTIONS FOR BOND SPECIFICATIONS.

IN THE ORDINANCE OR RESOLUTION, THE COUNTY OR MUNICIPALITY MAY:

(1) SPECIFY THE ITEMS LISTED IN SUBSECTION (D) OF THIS SECTION;

(2) AUTHORIZE THE FINANCE BOARD OF THE COUNTY OR MUNICIPALITY TO SPECIFY THOSE ITEMS BY ORDINANCE OR RESOLUTION; OR

(3) AUTHORIZE THE CHIEF EXECUTIVE TO SPECIFY THOSE ITEMS BY EXECUTIVE ORDER.

(D) OPTIONAL BOND SPECIFICATIONS.

FOR EACH ISSUANCE OF A BOND, THE COUNTY OR MUNICIPALITY MAY SPECIFY:

(1) THE PRINCIPAL AMOUNT;

(2) THE INTEREST RATE OR, FOR FLOATING OR VARIABLE RATES OF INTEREST, THE METHOD TO DETERMINE THE INTEREST RATE;

(3) THE MANNER AND TERMS OF SALE, INCLUDING WHETHER BY COMPETITIVE OR NEGOTIATED SALE;

(4) THE TIME OF EXECUTION, ISSUANCE, AND DELIVERY;

(5) THE FORM AND DENOMINATION;

(6) THE SOURCE, MANNER, TIMES, AND PLACES TO PAY PRINCIPAL OR INTEREST;

(7) CONDITIONS FOR REDEMPTION BEFORE MATURITY;

(8) THE PURPOSES FOR WHICH PROCEEDS MAY BE SPENT;

(9) THE SOURCE OF SECURITY; AND

(10) OTHER PROVISIONS THAT ARE NECESSARY OR DESIRABLE TO EFFECT THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 9–1503.

In subsection (c) of this section, the introductory language "[i]n the ordinance or resolution, the county or municipality may" is substituted for the former introductory language "[a]s the political subdivision considers appropriate to effect the Program, the ordinance or resolution may" for brevity and to clarify that the authority is granted to the county or municipality instead of the ordinance or resolution.

In subsection (d)(10) of this section, the former reference to "the governing body of" the county or municipality is deleted for consistency within this subtitle.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that it is not clear what was intended by the reference to a "finance board" of a county or municipality authorized to specify matters "by resolution or ordinance" in subsection (c)(2) of this section.

Defined terms: "Bond" § 1–1101
"Chief executive" § 1–1101
"County" § 1–101
"Municipality" § 1–101
"Program" § 1–1101

1–1107. BONDS — INTENT; PROCEDURES; RESTRICTIONS.

(A) LEGISLATIVE INTENT.

A COUNTY OR MUNICIPALITY MAY INCUR GENERAL OBLIGATION DEBT FOR THE PURPOSES UNDER THIS SUBTITLE.

(B) PROCEDURES FOR BOND AUTHORIZATIONS.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, A COUNTY OR MUNICIPALITY MAY ISSUE BONDS TO FINANCE LOANS MADE UNDER A PROGRAM IN ACCORDANCE WITH THE PROCEDURES OF THE COUNTY OR MUNICIPALITY FOR AUTHORIZATION TO SELL AND ISSUE OTHER EVIDENCES OF INDEBTEDNESS.

(C) RESTRICTIONS ON BOND ISSUANCE.

A BOND ISSUED IN ACCORDANCE WITH AN ORDINANCE OR A RESOLUTION THAT PLEDGES THE FULL FAITH AND CREDIT OF A COUNTY OR MUNICIPALITY IS SUBJECT TO:

(1) ANY APPLICABLE REQUIREMENT OF THE MARYLAND CONSTITUTION AND THE COUNTY'S OR MUNICIPALITY'S CHARTER AND LAWS ON REFERENDUM FOR THE ISSUANCE OF GENERAL OBLIGATION DEBT; AND

(2) ANY LIMITATION IMPOSED BY PUBLIC GENERAL LAW, PUBLIC LOCAL LAW, OR CHARTER ON GENERAL OBLIGATION DEBT OF THE COUNTY OR MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 9–1504.

In subsection (a) of this section, the phrase "[a] county or municipality may incur … debt" is substituted for the former phrase "[t]he General Assembly intends that … debt may be incurred" for clarity.

Also in subsection (a) of this section, the former references to "issuing bonds" are deleted as unnecessary in light of the reference to "general obligation debt".

In subsection (b) of this section, the reference to "other evidences of indebtedness" is substituted for the former reference to "bonds" to avoid the use of the defined term in a manner other than for which it was defined for this subtitle.

Defined terms: "Bond" § 1–1101
"County" § 1–101
"Municipality" § 1–101
"Program" § 1–1101

1–1108. BONDS — CONDITIONS OF ISSUANCE.

(A) IN GENERAL.

A BOND:

(1) MAY BE IN BEARER FORM;

(2) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH PRINCIPAL AND INTEREST; AND

(3) IS A SECURITY UNDER § 8–102 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE INTO A CLASS OR SERIES OF INSTRUMENTS.

(B) EXECUTION.

(1) A BOND SHALL BE SIGNED MANUALLY OR IN FACSIMILE BY THE CHIEF EXECUTIVE.

(2) AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(3) THE SEAL OF THE COUNTY OR MUNICIPALITY SHALL BE AFFIXED TO THE BOND AND ATTESTED TO BY THE CLERK OR OTHER SIMILAR ADMINISTRATIVE OFFICER OF THE COUNTY OR MUNICIPALITY.

(C) MATURITY.

(1) A BOND SHALL MATURE NOT LATER THAN 40 YEARS AFTER THE DATE OF ISSUE.

(2) BONDS MAY BE ISSUED AS SERIAL BONDS OR TERM BONDS WITH PROVISIONS FOR A MANDATORY SINKING FUND OR OTHER ANNUAL PRINCIPAL REDEMPTION BEGINNING NOT LATER THAN 3 YEARS AFTER THE DATE OF ISSUE.

(D) TERMS OF SALE.

(1) A BOND SHALL BE SOLD IN THE MANNER, AT PUBLIC SALE OR PRIVATE NEGOTIATED SALE, AND ON THE TERMS AT, ABOVE, OR BELOW PAR, AS THE COUNTY OR MUNICIPALITY CONSIDERS BEST.

(2) A BOND IS NOT SUBJECT TO §§ 19–205 AND 19–206 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 9–1505.

Defined terms: "Bond" § 1–1101
"Chief executive" § 1–1101

"County" § 1–101
"Municipality" § 1–101

1–1109. BONDS — TAX STATUS.

(A) STATE AND LOCAL.

A BOND, THE TRANSFER OF A BOND, THE INTEREST PAYABLE ON A BOND, THE INCOME DERIVED FROM A BOND, AND THE PROFIT REALIZED ON THE SALE OR EXCHANGE OF A BOND ARE EXEMPT FROM STATE AND LOCAL TAXES.

(B) FEDERAL.

A COUNTY OR MUNICIPALITY MAY ISSUE BONDS WITHOUT REGARD TO THE FEDERAL TAX STATUS OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 9–1506.

Defined terms: "Bond" § 1–1101
"County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–1110. FINDINGS CONCLUSIVE.

IN AN ACTION INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR SECURITY FOR A BOND, A FINDING BY A COUNTY OR MUNICIPALITY IS CONCLUSIVE AS TO:

(1) THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS SUBTITLE; AND

(2) ANY OTHER MATTER RELATING TO THE ISSUANCE OF A BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 9–1507.

Defined terms: "Bond" § 1–1101
"County" § 1–101
"Municipality" § 1–101

SUBTITLE 12. TOBACCO PRODUCT SALES.

1–1201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE 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) DISTRIBUTE.

"DISTRIBUTE" MEANS TO:

(1) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE;

(2) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR

(3) CAUSE OR HIRE ANY PERSON TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE OR OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 24, § 15–102.1(a).

Defined term: "Person" § 1–101

(C) TOBACCO PRODUCT.

(1) "TOBACCO PRODUCT" MEANS A PRODUCT CONTAINING TOBACCO.

(2) "TOBACCO PRODUCT" INCLUDES CIGARETTES, CIGARS, SMOKING TOBACCO, SNUFF, AND SMOKELESS TOBACCO.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 24, § 15–101.

1–1202. DISPLAY OF TOBACCO PRODUCTS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN:

(1) CARROLL COUNTY; AND

(2) GARRETT COUNTY.

(B) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO:

(1) THE SALE OF A TOBACCO PRODUCT FROM A VENDING MACHINE THAT COMPLIES WITH STATE LAW;

(2) A TOBACCONIST ESTABLISHMENT THAT ENGAGES PRIMARILY IN THE SALE OF TOBACCO PRODUCTS OTHER THAN CIGARETTES, AS DEFINED IN § 16–101 OF THE BUSINESS REGULATION ARTICLE; OR

(3) A BUSINESS THAT ENGAGES PRIMARILY IN THE RETAIL SALE OF BEER, WINE, AND LIQUOR.

(C) PROHIBITION.

A PERSON WHO OWNS OR OPERATES A BUSINESS THAT ENGAGES IN THE RETAIL SALE OF A TOBACCO PRODUCT MAY NOT STORE OR DISPLAY A TOBACCO PRODUCT UNLESS THE TOBACCO PRODUCT:

(1) IS NOT IMMEDIATELY ACCESSIBLE TO CUSTOMERS; AND

(2) IS ACCESSIBLE ONLY TO THE OWNER OR OPERATOR OF THE BUSINESS OR AN AGENT OF THE OWNER OR OPERATOR.

(D) CIVIL PENALTY.

A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION COMMITS A CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY OF:

(1) $100 FOR THE FIRST VIOLATION; AND

(2) $300 FOR ANY SUBSEQUENT VIOLATION.

(E) SECOND CITATION.

A CITATION FOR A SECOND VIOLATION MAY NOT BE ISSUED WITHIN 30 DAYS AFTER THE DATE OF THE FIRST CITATION.

(F) ADDITIONAL CITATIONS.

AFTER A CITATION IS ISSUED FOR A SECOND VIOLATION, A CITATION MAY BE ISSUED EACH DAY THAT THE VIOLATION CONTINUES AFTER THE DATE OF THE SECOND CITATION.

REVISOR'S NOTE: This section formerly was Art. 24, § 15–102.

In subsection (b)(1) of this section, the former reference to a vending machine that complies with "the requirements of" State law is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to an "employee" of the owner or operator is deleted as included in the reference to an "agent" of the owner or operator.

The only other changes are in style.

Defined terms: "Person" § 1–101
"Tobacco product" § 1–1201
"State" § 1–101

1–1203. DISTRIBUTION OF TOBACCO PRODUCTS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN:

(1) CARROLL COUNTY;

(2) CECIL COUNTY;

(3) GARRETT COUNTY; AND

(4) ST. MARY'S COUNTY.

(B) APPLICATION OF SECTION.

SUBSECTION (C)(3) OF THIS SECTION DOES NOT APPLY TO THE DISTRIBUTION OF A COUPON THAT IS REDEEMABLE FOR A TOBACCO PRODUCT IF THE COUPON:

(1) IS CONTAINED IN A NEWSPAPER, MAGAZINE, OR OTHER TYPE OF PUBLICATION AND THE COUPON IS INCIDENTAL TO THE PRIMARY PURPOSE OF THE PUBLICATION; OR

(2) IS SENT THROUGH THE MAIL.

(C) PROHIBITION.

A PERSON MAY NOT:

(1) DISTRIBUTE A TOBACCO PRODUCT TO A MINOR, UNLESS THE MINOR IS ACTING SOLELY AS THE AGENT OF THE MINOR'S EMPLOYER WHO IS ENGAGED IN THE BUSINESS OF DISTRIBUTING TOBACCO PRODUCTS;

(2) DISTRIBUTE CIGARETTE ROLLING PAPERS TO A MINOR; OR

(3) DISTRIBUTE TO A MINOR A COUPON REDEEMABLE FOR A TOBACCO PRODUCT.

(D) DEFENSE.

A PERSON HAS NOT VIOLATED THIS SECTION IF:

(1) THE PERSON EXAMINED THE DRIVER'S LICENSE OR OTHER VALID GOVERNMENT–ISSUED IDENTIFICATION PRESENTED BY THE RECIPIENT OF A TOBACCO PRODUCT, CIGARETTE ROLLING PAPER, OR COUPON REDEEMABLE FOR A TOBACCO PRODUCT; AND

(2) THE LICENSE OR OTHER IDENTIFICATION POSITIVELY IDENTIFIED THE RECIPIENT AS BEING AT LEAST 18 YEARS OLD.

(E) CIVIL PENALTY.

(1) IN CARROLL COUNTY AND ST. MARY'S COUNTY, A PERSON WHO VIOLATES THIS SECTION COMMITS A CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY OF:

(I) $300 FOR THE FIRST VIOLATION; AND

(II) $500 FOR ANY SUBSEQUENT VIOLATION WITHIN 24 MONTHS AFTER THE PREVIOUS CITATION.

(2) IN CECIL COUNTY, A PERSON WHO VIOLATES THIS SECTION COMMITS A CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY OF:

(I) $300 FOR THE FIRST VIOLATION;

(II) $500 FOR A SECOND VIOLATION; AND

(III) $750 FOR ANY SUBSEQUENT VIOLATION.

(3) IN GARRETT COUNTY, A PERSON WHO VIOLATES THIS SECTION COMMITS A CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING $300.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 15–102.1(b) through (f).

Defined terms: "Distribute" § 1–1201
"Person" § 1–101
"Tobacco product" § 1–1201

1–1204. CITATION.

(A) ISSUANCE.

(1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY HEALTH OFFICER OR A DESIGNEE OF A COUNTY HEALTH OFFICER MAY ISSUE A CIVIL CITATION TO A PERSON WHO VIOLATES THIS SUBTITLE.

(2) IN CECIL COUNTY, ONLY A SWORN LAW ENFORCEMENT OFFICER MAY ISSUE A CIVIL CITATION TO A PERSON WHO VIOLATES THIS SUBTITLE.

(B) CONTENTS.

A CITATION ISSUED UNDER THIS SUBTITLE SHALL INCLUDE:

(1) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(2) THE NATURE OF THE VIOLATION;

(3) THE LOCATION AND TIME OF THE VIOLATION;

(4) THE AMOUNT OF THE CIVIL PENALTY;

(5) THE MANNER, LOCATION, AND TIME IN WHICH THE CIVIL PENALTY MAY BE PAID;

(6) THE CITED PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE VIOLATION; AND

(7) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:

(I) IS AN ADMISSION OF LIABILITY; AND

(II) MAY RESULT IN AN ENTRY OF A DEFAULT JUDGMENT THAT MAY INCLUDE THE CIVIL PENALTY, COURT COSTS, AND ADMINISTRATIVE EXPENSES.

(C) COPY OF CITATION.

THE COUNTY HEALTH OFFICER OR SWORN LAW ENFORCEMENT OFFICER SHALL RETAIN A COPY OF THE CITATION.

REVISOR'S NOTE: This section formerly was Art. 24, § 15–103.

The only changes are in style.

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

1–1205. ELECTION TO STAND TRIAL.

(A) IN GENERAL.

(1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO RECEIVES A CITATION UNDER THIS SUBTITLE MAY ELECT TO STAND TRIAL FOR THE VIOLATION BY FILING A NOTICE OF INTENTION TO STAND TRIAL WITH THE COUNTY HEALTH OFFICER AT LEAST 5 DAYS BEFORE THE DATE SET IN THE CITATION FOR THE PAYMENT OF THE CIVIL PENALTY.

(2) IN CECIL COUNTY, A PERSON WHO RECEIVES A CITATION UNDER THIS SUBTITLE MAY ELECT TO STAND TRIAL FOR THE VIOLATION BY FILING A NOTICE OF INTENTION TO STAND TRIAL AND A COPY OF THE CITATION WITH THE DISTRICT COURT AT LEAST 5 DAYS BEFORE THE DATE SET IN THE CITATION FOR PAYMENT OF THE CIVIL PENALTY.

(B) NOTICE TO DISTRICT COURT.

AFTER RECEIVING A NOTICE OF INTENTION TO STAND TRIAL UNDER SUBSECTION (A)(1) OF THIS SECTION, THE COUNTY HEALTH OFFICER SHALL FORWARD THE NOTICE AND A COPY OF THE CITATION TO THE DISTRICT COURT.

(C) SCHEDULING OF CASE.

AFTER RECEIVING THE CITATION AND NOTICE, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT OF THE TRIAL DATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 15–104(a) through (d).

In subsections (a)(2) and (b) of this section, the former references to the District Court "having venue" are deleted as surplusage. The citation will provide information regarding which District Court has venue.

In subsection (b) of this section, the former reference to receiving a notice of intention to stand trial "from a person providing notice" is deleted as surplusage.

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

1–1206. PROSECUTION OF VIOLATIONS.

(A) IN GENERAL.

IN A PROCEEDING BEFORE THE DISTRICT COURT, A VIOLATION OF THIS SUBTITLE SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT AS A MUNICIPAL INFRACTION UNDER §§ 6–108 THROUGH 6–115 OF THIS ARTICLE.

(B) PROSECUTION BY COUNTY ATTORNEY.

THE GOVERNING BODY OF THE COUNTY IN WHICH THE VIOLATION OCCURRED MAY AUTHORIZE THE COUNTY ATTORNEY TO PROSECUTE A CIVIL INFRACTION UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 15–104(f) and (g).

Defined terms: "County" § 1–101
"Governing body" § 1–101

1–1207. COURT COSTS.

IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED A CIVIL INFRACTION UNDER THIS SUBTITLE, THE COURT MAY ASSESS THE COSTS OF THE PROCEEDINGS AGAINST THE PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 24, § 15–104(h).

Defined term: "Person" § 1–101

1–1208. PENALTIES REMITTED TO COUNTY.

THE DISTRICT COURT SHALL REMIT ANY PENALTIES IT COLLECTS FOR A VIOLATION OF THIS SUBTITLE TO THE COUNTY IN WHICH THE VIOLATION OCCURRED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 15–104(e).

The former reference to "forfeitures" is deleted because this subtitle only provides for penalties.

Defined term: "County" § 1–101

1–1209. ADJUDICATION NOT A CRIMINAL CONVICTION.

ADJUDICATION OF A VIOLATION OF THIS SUBTITLE IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 15–104(i).

The reference to a criminal conviction "for any purpose" is added for consistency with other similar provisions of the Code.

The reference to an "[a]djudication" of a violation of this subtitle is substituted for the former reference to "[t]he finding by the District Court" of a violation for consistency with other similar provisions of the Code.

The former reference to an adjudication of a violation of this subtitle "not impos[ing] any of the civil disabilities ordinarily imposed by a criminal conviction" is deleted as included in the reference to an adjudication of a violation not being "a criminal conviction for any purpose".

SUBTITLE 13. MISCELLANEOUS.

1–1301. RESIDENT AGENTS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DEPARTMENT" MEANS THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(3) "GOVERNING AUTHORITY" MEANS:

(I) THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY;

(II) A BOARD OF DIRECTORS; OR

(III) ANY OTHER BODY THAT GOVERNS AN ENTITY TO WHICH THIS SECTION APPLIES.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO THE FOLLOWING GOVERNMENTAL ENTITIES:

(1) COUNTIES;

(2) MUNICIPALITIES;

(3) BICOUNTY OR MULTICOUNTY AGENCIES;

(4) PUBLIC AUTHORITIES;

(5) SPECIAL TAXING DISTRICTS; AND

(6) ANY OTHER POLITICAL SUBDIVISION OR UNIT OF A POLITICAL SUBDIVISION OF THE STATE.

(C) REQUIRED.

EACH GOVERNMENTAL ENTITY SHALL HAVE A RESIDENT AGENT WHO IS:

(1) A RESIDENT OF THE STATE;

(2) A MARYLAND CORPORATION; OR

(3) AN OFFICER OF THE GOVERNMENTAL ENTITY.

(D) DESIGNATION OR CHANGE OF RESIDENT AGENT.

A GOVERNMENTAL ENTITY SHALL DESIGNATE OR CHANGE ITS RESIDENT AGENT BY FILING FOR RECORD WITH THE DEPARTMENT:

(1) A CERTIFICATION OF THE PERSON WHO THE CHARTER OF THE GOVERNMENTAL ENTITY AUTHORIZES TO ACCEPT SERVICE OF PROCESS FOR THE GOVERNMENTAL ENTITY; OR

(2) ABSENT A CHARTER DESIGNATION, A CERTIFIED COPY OF A RESOLUTION OF THE GOVERNMENTAL ENTITY'S GOVERNING AUTHORITY THAT AUTHORIZES THE DESIGNATION.

(E) CHANGE OF ADDRESS.

(1) A GOVERNMENTAL ENTITY MAY CHANGE THE ADDRESS FOR ITS RESIDENT AGENT BY FILING FOR RECORD WITH THE DEPARTMENT A STATEMENT OF THE CHANGE SIGNED BY THE CHAIR OR OTHER PRINCIPAL OFFICER OF THE GOVERNING AUTHORITY OF THE GOVERNMENTAL ENTITY.

(2) A RESIDENT AGENT WHOSE ADDRESS CHANGES MAY NOTIFY THE DEPARTMENT BY FILING FOR RECORD WITH THE DEPARTMENT A STATEMENT OF THE CHANGE SIGNED BY OR FOR THE RESIDENT AGENT.

(F) RESIGNATION.

A RESIDENT AGENT MAY RESIGN BY FILING A STATEMENT OF RESIGNATION WITH THE DEPARTMENT.

(G) FILING FEE.

THERE IS NO FEE FOR A FILING UNDER THIS SECTION.

(H) EFFECTIVENESS OF DESIGNATION, CHANGE, OR RESIGNATION.

A DESIGNATION, CHANGE OF AGENT, CHANGE OF ADDRESS, OR RESIGNATION IS EFFECTIVE AS PROVIDED IN THE CORPORATIONS AND ASSOCIATIONS ARTICLE FOR A CORPORATE RESIDENT AGENT.

(I) SERVICE OF PROCESS.

(1) SERVICE OF PROCESS ON THE RESIDENT AGENT OF A GOVERNMENTAL ENTITY CONSTITUTES EFFECTIVE SERVICE OF PROCESS UNDER THE MARYLAND RULES ON THE GOVERNMENTAL ENTITY IN AN ACTION BROUGHT AGAINST THE GOVERNMENTAL ENTITY.

(2) ANY NOTICE REQUIRED BY LAW TO BE SERVED BY PERSONAL SERVICE ON THE RESIDENT AGENT OR ANY OTHER AGENT OR OFFICER OF A GOVERNMENTAL ENTITY MAY BE SERVED IN THE MANNER PROVIDED BY THE MARYLAND RULES THAT RELATE TO SERVICE OF PROCESS ON GOVERNMENTAL ENTITIES.

(3) SERVICE UNDER THE MARYLAND RULES IS EQUIVALENT TO PERSONAL SERVICE ON THE RESIDENT AGENT OR OTHER AGENT OR OFFICER OF A GOVERNMENTAL ENTITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 1–110.

In subsections (a)(3), (d)(2), and (e)(1) of this section, the term "[g]overning authority" is substituted for the former references to a "[g]overning body" to avoid confusion with the term "governing body", which is defined for the entire article.

Subsection (b) of this section is revised as a scope provision rather than a definition of "local entity" because the former definition served only to delineate the types of entities that are covered by this section. Correspondingly, throughout this section, the references to "governmental entity" are substituted for the former references to "local entity".

In subsection (c)(1) of this section, the reference to a "resident of the State" is substituted for the former reference to a "citizen of this State who resides in the State" because the meaning of the word citizen in this context is unclear and for consistency within this article and with other revised articles of the Code. *See* General Revisor's Note to article.

In subsection (i)(1) of this section, the reference to an action "brought" against the governmental entity is substituted for the former reference to an action "that is pending, filed, or instituted" for brevity.

Also in subsection (i)(1) of this section, the former references to a "suit" and a "proceeding" are deleted as included in the reference to an "action".

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101
"Person" § 1–101
"State" § 1–101

1–1302. PUBLICATION OF REGULATIONS.

(A) "REGULATION" DEFINED.

IN THIS SECTION, "REGULATION" HAS THE MEANING STATED IN § 10–101 OF THE STATE GOVERNMENT ARTICLE.

(B) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO A UNIT OF STATE GOVERNMENT.

(C) REQUIRED.

EACH GOVERNMENTAL AND QUASI–GOVERNMENTAL UNIT SHALL COMPILE, INDEX, AND PUBLISH ITS REGULATIONS THAT AFFECT A MEMBER OF THE GENERAL PUBLIC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 3–101.

In subsection (c) of this section, the former reference to "edit[ing]" regulations is deleted as included in the references to "compil[ing]" regulations.

Defined term: "State" § 1–101

1–1303. CIVIL PENALTIES.

(A) "CIVIL PENALTY" DEFINED.

IN THIS SECTION, "CIVIL PENALTY" MEANS A CIVIL FINE OR OTHER MONETARY PENALTY ADMINISTRATIVELY IMPOSED.

(B) CONSIDERATIONS IN SETTING AMOUNT OF PENALTY.

UNLESS OTHERWISE PROVIDED BY STATUTE, ORDINANCE, OR REGULATION, AN OFFICER OR UNIT OF A COUNTY, MUNICIPALITY, BICOUNTY

AGENCY, OR BOARD OF LICENSE COMMISSIONERS AUTHORIZED BY LAW TO IMPOSE A CIVIL PENALTY UP TO A SPECIFIC DOLLAR AMOUNT FOR VIOLATION OF A STATUTE, ORDINANCE, OR REGULATION SHALL CONSIDER THE FOLLOWING IN SETTING THE AMOUNT OF THE CIVIL PENALTY:

(1) THE SEVERITY OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR; AND

(3) ANY HISTORY OF PRIOR VIOLATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 14–101.

In the introductory language of subsection (b) of this section, the former reference to unit "not includ[ing] a court" is deleted as surplusage.

In subsection (b) of this section, the provisions of former Art. 24, § 14–101(a)(2) and (4), which defined "unit" and "political subdivision", respectively, are incorporated into the substantive provision for clarity and brevity.

In subsection (b)(1) of this section, the former reference to the violation "for which the penalty is to be assessed" is deleted as implicit in assessing a penalty.

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

1–1304. OUTDOOR ADVERTISING SIGNS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "FAIR MARKET VALUE" MEANS A VALUE THAT:

1. IS DETERMINED BY A SCHEDULE ADOPTED BY THE DEPARTMENT OF TRANSPORTATION; AND

2. INCLUDES THE VALUE OF THE INTEGRAL PARTS OF AN OUTDOOR ADVERTISING SIGN, LESS DEPRECIATION.

(II) "FAIR MARKET VALUE" DOES NOT INCLUDE LOSS OF REVENUE.

(3) (I) "OUTDOOR ADVERTISING SIGN" MEANS AN OFF–PREMISES OUTDOOR SIGN THAT IS:

1. COMMERCIALLY OWNED AND MAINTAINED; AND

2. USED TO ADVERTISE GOODS OR SERVICES FOR SALE IN A LOCATION OTHER THAN THE LOCATION WHERE THE SIGN IS PLACED.

(II) "OUTDOOR ADVERTISING SIGN" INCLUDES A SIGN COMPOSED OF PAINTED BULLETIN OR POSTER PANEL, GENERALLY REFERRED TO AS A BILLBOARD.

(B) PAYMENT FOR REMOVAL.

A COUNTY OR MUNICIPALITY SHALL PAY THE FAIR MARKET VALUE OF AN OUTDOOR ADVERTISING SIGN THAT:

(1) WAS LAWFULLY ERECTED AND MAINTAINED UNDER A STATE, COUNTY, OR MUNICIPAL LAW OR ORDINANCE; AND

(2) IS REMOVED OR REQUIRED TO BE REMOVED BY THE COUNTY OR MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 122E.

In subsection (a)(2)(ii) of this section, the former reference to "a value for" loss of revenue is deleted as implicit in the reference to fair market "value".

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–1305. COMPLIANCE WITH WORKERS' COMPENSATION ACT.

(A) "COVERED EMPLOYEE" DEFINED.

IN THIS SECTION, "COVERED EMPLOYEE" HAS THE MEANING STATED IN § 9–101 OF THE LABOR AND EMPLOYMENT ARTICLE.

(B) EMPLOYER LICENSE OR PERMIT.

BEFORE A COUNTY OR MUNICIPALITY MAY ISSUE A LICENSE OR PERMIT TO AN EMPLOYER TO ENGAGE IN AN ACTIVITY IN WHICH THE EMPLOYER MAY EMPLOY A COVERED EMPLOYEE, THE EMPLOYER SHALL FILE WITH THE ISSUING AUTHORITY:

(1) A CERTIFICATE OF COMPLIANCE WITH THE MARYLAND WORKERS' COMPENSATION ACT; OR

(2) THE NUMBER OF A WORKERS' COMPENSATION INSURANCE POLICY OR BINDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 48, Art. 24, § 1–106, and Art. 25, § 231.

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

1–1306. USE OF POPULATION COUNT TO CREATE LEGISLATIVE DISTRICTS FOR ELECTION OF GOVERNING BODY.

THE POPULATION COUNT USED AFTER EACH DECENNIAL CENSUS TO CREATE THE LEGISLATIVE DISTRICTS THAT ARE USED TO ELECT THE GOVERNING BODY OF A COUNTY OR A MUNICIPALITY:

(1) MAY NOT INCLUDE INDIVIDUALS WHO:

(I) WERE INCARCERATED IN STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS; AND

(II) WERE NOT RESIDENTS OF THE STATE BEFORE THEIR INCARCERATION; AND

(2) SHALL INCLUDE INDIVIDUALS INCARCERATED IN STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS, AT THEIR LAST KNOWN RESIDENCE BEFORE INCARCERATION IF THE INDIVIDUALS WERE RESIDENTS OF THE STATE.

REVISOR'S NOTE: This section formerly was Art. 24, § 1–111.

The only changes are in style.

Defined terms: "County" § 1–101

"Governing body" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–1307. AFFORDABLE HOUSING PROGRAMS.

TO SUPPORT, FOSTER, OR PROMOTE AN AFFORDABLE HOUSING PROGRAM FOR INDIVIDUALS OR FAMILIES OF LOW OR MODERATE INCOME, A COUNTY OR MUNICIPALITY MAY:

(1) ESTABLISH LOCAL TRUST FUNDS OR APPROPRIATE FUNDS;

(2) WAIVE OR MODIFY BUILDING PERMIT OR DEVELOPMENT IMPACT FEES AND CHARGES THAT ARE NOT MANDATED UNDER STATE LAW FOR THE CONSTRUCTION OR REHABILITATION OF LOWER INCOME HOUSING UNITS:

(I) IN PROPORTION TO THE NUMBER OF LOWER INCOME HOUSING UNITS OF A DEVELOPMENT; AND

(II) 1. THAT ARE FINANCED, WHOLLY OR PARTLY, BY PUBLIC FUNDING THAT REQUIRES MORTGAGE RESTRICTIONS OR RECORDED COVENANTS RESTRICTING THE RENTAL OR SALE OF THE HOUSING UNITS TO LOWER INCOME RESIDENTS IN ACCORDANCE WITH SPECIFIC GOVERNMENT PROGRAM REQUIREMENTS; OR

2. THAT ARE DEVELOPED BY A NONPROFIT ORGANIZATION THAT:

A. HAS BEEN EXEMPT FROM FEDERAL TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE FOR AT LEAST 3 YEARS; AND

B. REQUIRES THE HOMEBUYER TO PARTICIPATE IN THE CONSTRUCTION OR REHABILITATION OF THE HOUSING UNIT;

(3) ENACT LEGISLATION THAT RESTRICTS COST AND RESALE PRICES AND REQUIRES DEVELOPMENT OF AFFORDABLE HOUSING UNITS AS PART OF ANY SUBDIVISION IN RETURN FOR ADDED DENSITY;

(4) PROVIDE LAND OR PROPERTY FROM THE INVENTORY OF THE COUNTY OR MUNICIPALITY; AND

(5) SUPPORT PILOT (PAYMENT IN LIEU OF TAXES) PROGRAMS TO ENCOURAGE CONSTRUCTION OF AFFORDABLE HOUSING.

REVISOR'S NOTE: This section formerly was Art. 24, § 21–101.

In item (2)(ii)2A of this section, the former reference to exemption for "a period of" at least 3 years is deleted as surplusage.

The only other changes are in style.

Defined terms: "County" § 1–101
"Municipality" § 1–101
"State" § 1–101

1–1308. STREET LIGHTING EQUIPMENT.

(A) "ELECTRIC COMPANY" DEFINED.

IN THIS SECTION, "ELECTRIC COMPANY" HAS THE MEANING STATED IN § 1–101 OF THE PUBLIC UTILITIES ARTICLE.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO ALL COUNTIES AND MUNICIPALITIES.

(C) SALE OF STREET LIGHTING EQUIPMENT.

ON WRITTEN REQUEST BY A COUNTY OR MUNICIPALITY, AN ELECTRIC COMPANY SHALL SELL TO THE COUNTY OR MUNICIPALITY SOME OR ALL OF THE ELECTRIC COMPANY'S EXISTING STREET LIGHTING EQUIPMENT THAT IS LOCATED IN THE COUNTY OR MUNICIPALITY.

(D) FAIR MARKET VALUE.

IF THE COUNTY OR MUNICIPALITY PURCHASES STREET LIGHTING EQUIPMENT FROM AN ELECTRIC COMPANY, THE COUNTY OR MUNICIPALITY SHALL PAY TO THE ELECTRIC COMPANY THE FAIR MARKET VALUE OF THE STREET LIGHTING EQUIPMENT.

(E) MAINTENANCE.

A COUNTY OR MUNICIPALITY THAT PURCHASES STREET LIGHTING EQUIPMENT IN ACCORDANCE WITH THIS SECTION:

(1) SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT; AND

(2) MAY CONTRACT WITH AN OUTSIDE ENTITY FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT.

(F) RIGHT TO USE SPACE.

(1) ANY PERSON WHO CONTROLS THE RIGHT TO USE SPACE ON ANY POLE, LAMPPOST, OR OTHER MOUNTING SURFACE PREVIOUSLY USED IN THE COUNTY OR MUNICIPALITY BY THE ELECTRIC COMPANY FOR STREET LIGHTING EQUIPMENT SHALL ALLOW A COUNTY OR MUNICIPALITY THAT HAS PURCHASED THE STREET LIGHTING EQUIPMENT TO ASSUME THE RIGHTS AND OBLIGATIONS OF THE ELECTRIC COMPANY WITH RESPECT TO THE SPACE FOR THE UNEXPIRED TERM OF ANY LEASE OR OTHER AGREEMENT UNDER WHICH THE ELECTRIC COMPANY USED THE SPACE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE COUNTY OR MUNICIPALITY MAY NOT RESTRICT OR PROHIBIT UNIVERSAL ACCESS FOR ELECTRICITY OR ANY OTHER SERVICE BY ASSUMING THE RIGHTS AND OBLIGATIONS OF AN ELECTRIC COMPANY AS TO SPACE ON ANY POLE, LAMPPOST, OR OTHER MOUNTING SURFACE USED FOR STREET LIGHTING EQUIPMENT.

(3) ANY DISPUTE BETWEEN AN ELECTRIC COMPANY AND A COUNTY OR MUNICIPALITY ARISING UNDER THIS SUBSECTION SHALL BE SUBMITTED TO THE PUBLIC SERVICE COMMISSION FOR RESOLUTION.

REVISOR'S NOTE: Subsections (a) and (c) through (f) of this section are new language derived without substantive change from former Art. 24, § 5–101.

Subsection (b) of this section is new language added to clarify the scope of this section.

Throughout this section, the references to "county or municipality" are substituted for the former references to "local government" and "local jurisdiction" for consistency with other similar provisions of this article.

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

TITLE 2. RESERVED.

TITLE 3. RESERVED.

DIVISION II. MUNICIPALITIES.

TITLE 4. IN GENERAL.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

4–101. 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) MUNICIPAL CHARTER.

"MUNICIPAL CHARTER" MEANS A CHARTER ADOPTED UNDER ARTICLE XI–E OF THE MARYLAND CONSTITUTION AND A LOCAL LAW ENACTED BY THE GENERAL ASSEMBLY RELATING TO THE INCORPORATION, ORGANIZATION, GOVERNMENT, OR AFFAIRS CONCERNING ADMINISTRATION AND SERVICES OF A MUNICIPALITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 23A, § 9(e).

The reference to a "charter adopted under Article XI–E of the Maryland Constitution" is substituted for the former reference to the "existing charter" for clarity.

Defined term: "Municipality" § 1–101

(C) QUALIFIED VOTER.

"QUALIFIED VOTER" MEANS AN INDIVIDUAL AUTHORIZED UNDER A MUNICIPAL CHARTER TO VOTE IN ELECTIONS IN THE MUNICIPALITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 23A, § 9(d).

The reference to "an individual" 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 vote in a municipal election.

The former reference to the term "qualified to vote" is deleted as unnecessary because the term was not used in the former law, nor is it used in this revision.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

4–102. CLASSIFICATION OF MUNICIPALITIES.

THERE IS ONE CLASS OF MUNICIPALITIES IN THE STATE, AND EVERY MUNICIPALITY IS A MEMBER OF THAT CLASS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 10.

The former phrase "[p]ursuant to the provisions of § 2 of Article XI–E of the Constitution of Maryland, requiring the General Assembly to group the several municipal corporations in this State into not more than four classes based upon population, the General Assembly hereby declares that" is deleted as surplusage.

The former reference to municipalities being "subject to the constitutional and statutory laws applicable thereto" is deleted as implicit.

Defined terms: "Municipality" § 1–101
"State" § 1–101

4–103. MUNICIPALITY AS CORPORATION; GENERAL POWERS.

(A) CORPORATION.

THE RESIDENTS OF A MUNICIPALITY ARE A MUNICIPAL CORPORATION.

(B) GENERAL POWERS.

UNDER THE MUNICIPALITY'S CORPORATE NAME, THE MUNICIPALITY:

(1) HAS PERPETUAL SUCCESSION;

(2) MAY SUE AND BE SUED; AND

(3) MAY ENACT AND ADOPT ORDINANCES, RESOLUTIONS, OR BYLAWS NECESSARY TO EXERCISE THE AUTHORITY OF THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 1.

In subsection (a) of this section, the reference to a "municipal corporation" is substituted for the former reference to a "body corporate" for clarity and to use more modern terminology.

Also in subsection (a) of this section, the reference to the residents of a municipality "are" a corporation is substituted for the former reference to the residents of a municipality "constitute and shall continue to be" a corporation for brevity.

In subsection (b)(3) of this section, the reference to the "authority of the municipality" is substituted for the former reference to the "powers granted herein or elsewhere" for clarity.

Also in subsection (b)(3) of this section, the former reference to "proper" ordinances, resolutions, or bylaws is deleted as implicit in the reference to "necessary" ordinances, resolutions, or bylaws.

Defined term: "Municipality" § 1–101

4–104. LIMITATIONS ON HOME RULE.

(A) "SPECIAL DISTRICT" DEFINED.

IN THIS SECTION, "SPECIAL DISTRICT" MEANS A SPECIAL TAX AREA OR DISTRICT, SANITARY DISTRICT, PARK OR PLANNING DISTRICT, SOIL CONSERVATION DISTRICT, OR PUBLIC AGENCY EXERCISING SPECIFIC POWERS IN A DEFINED AREA THAT DOES NOT EXERCISE GENERAL MUNICIPAL FUNCTIONS.

(B) MUNICIPAL AUTHORITY OVER NONMUNICIPAL ENTITIES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A MUNICIPALITY LOCATED IN A SPECIAL DISTRICT MAY NOT EXERCISE, DIVEST, OR DUPLICATE IN THE MUNICIPALITY'S CORPORATE LIMITS ANY SPECIAL POWER OR DUTY CONFERRED ON THE SPECIAL DISTRICT.

(2) SUBJECT TO THE CONSENT OF THE SPECIAL DISTRICT, A MUNICIPALITY MAY, WITHIN ITS CORPORATE LIMITS, PROVIDE RECREATIONAL FACILITIES WITHIN A SPECIAL DISTRICT'S JURISDICTION.

(C) PAYMENTS TO SUPPORT NONMUNICIPAL ENTITIES.

A MUNICIPALITY MAY NOT EXEMPT AN AREA FROM ANY PROPERTY TAX, SPECIAL BENEFIT ASSESSMENT, OR SERVICE CHARGE IMPOSED TO SUPPORT A SPECIAL DISTRICT.

(D) POWERS AND DUTIES GRANTED TO SPECIAL DISTRICT.

A LOCAL LAW CONFERRING A SPECIAL POWER OR DUTY ON A SPECIAL DISTRICT DOES NOT AUTHORIZE THE SPECIAL DISTRICT TO EXERCISE THAT POWER OR PERFORM THAT DUTY IN AN AREA WHERE A MUNICIPALITY CONTINUES TO EXERCISE THE POWER OR PERFORM THE DUTY.

(E) MUNICIPAL AUTHORITY OVER SANITATION OR ZONING.

A MUNICIPALITY MAY NOT AMEND OR REPEAL ITS CHARTER OR EXERCISE ITS POWERS OF ANNEXATION OR INCORPORATION AS TO AFFECT THE POWER OF:

(1) THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION, RELATING TO ZONING; OR

(2) THE WASHINGTON SUBURBAN SANITARY COMMISSION, RELATING TO SANITATION, INCLUDING SEWER, WATER, AND SIMILAR FACILITIES.

(F) MUNICIPAL PLANNING AND ZONING JURISDICTION.

ARTICLE XI–E OF THE MARYLAND CONSTITUTION, THIS DIVISION, AND DIVISION I OF THE LAND USE ARTICLE DO NOT AUTHORIZE A MUNICIPALITY, THROUGH PROCEDURES UNDER THIS TITLE OR OTHER CHANGES IN THE MUNICIPAL CHARTER, TO EXERCISE PLANNING AUTHORITY, SUBDIVISION CONTROL, OR ZONING JURISDICTION IN A POLITICAL SUBDIVISION IN WHICH A STATE, REGIONAL, OR COUNTY UNIT EXERCISES PLANNING AUTHORITY, SUBDIVISION CONTROL, OR ZONING JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the third, fourth, and, as it related to special tax areas and public agencies exercising power in a defined area, the second sentences of former Art. 23A, § 9(a) and the first sentence of (c)(1) and the first sentence of § 19(s).

Subsection (a) of this section is restated as a defined term to avoid repetition of the full reference to the list of areas and entities that are considered to be a "special district" and for clarity.

In subsection (b) of this section, the references to the "special district" are substituted for the former references to the "board, commission, authority or public corporation" in light of the defined term. Similarly, in subsections (c) and (d) of this section, the references to "a special district" are substituted for the former references to "any such board, commission, authority or other public corporation".

In subsections (b)(1) and (c) of this section, the former references to exercising a power "by incorporation, charter amendment, annexation[,] or otherwise" are deleted as unnecessary because the list is inclusive of every means by which a municipality can exercise power.

In subsection (b)(1) of this section, the statement that a municipality "may not" exercise powers or duties is substituted for the former reference to "[n]othing herein contained shall be construed to confer" powers or duties on a municipality for brevity and clarity.

Also in subsection (b)(1) of this section, the former reference to "perform[ing]" powers or duties is deleted as included in the reference to "exercis[ing]" powers or duties.

Also in subsection (b)(1) of this section, the former reference to the special district "created or appointed in accordance with law" is deleted as unnecessary in light of the definition of "special district".

Also in subsection (b)(1) of this section, the former reference to powers or duties being conferred on the special district "to administer any such special tax area or district" is deleted as implicit.

In subsection (b)(2) of this section, the former reference to the "approval" of a special district is deleted as included in the reference to the "consent" of a special district.

Also in subsection (b)(2) of this section, the former reference to "parks, gardens, [and] playgrounds" is deleted as included in the reference to "recreational facilities".

In subsection (c) of this section, the former reference to property "in such area" is deleted as surplusage.

Also in subsection (c) of this section, the former reference to a municipality exempting any area "within its corporate limits" is deleted as implicit in a municipality's jurisdiction to act only within its

boundaries. Similarly, in subsection (d) of this section, the former reference to the powers or duties of a municipality "within its corporate limits, in accordance with law" is deleted.

In subsection (d) of this section, the reference to a local law not "authoriz[ing] the special district to exercise that power or perform that duty in an area where a municipality continues to exercise the power or perform the duty" is substituted for the former reference to a local law not "be[ing] construed to divest any municipal corporation exercising the same powers or performing the same duties … of its right to continue the exercise of such powers or the performance of such duties, it being the intent hereof to avoid duplication in the rendition of public services" for brevity and clarity.

In subsection (e) of this section, the former reference to the powers that a municipality may not "impair in any respect" is deleted as included in the reference to the powers that a municipality may not "affect".

In subsection (f) of this section, the references to planning "authority" are added for clarity.

Also in subsection (f) of this section, the former reference to "[t]he powers granted to municipal corporations" is deleted as surplusage.

Also in subsection (f) of this section, the former references to planning and zoning "power" are deleted as included in the references to planning and zoning "jurisdiction".

As to the substitution of the reference to "unit" for the former reference to "agency or authority" in subsection (f) of this section, *see* General Revisor's Note to article.

Defined terms: "County" § 1–101
"Municipal charter" § 4–101
"Municipality" § 1–101
"State" § 1–101

4–105. MEETINGS OF MUNICIPAL LEGISLATIVE BODIES TO BE PUBLIC.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY NOT ADOPT AN ORDINANCE, A RESOLUTION, A RULE, OR A REGULATION AT A MEETING NOT OPEN TO THE PUBLIC, EXCEPT IN ACCORDANCE WITH THE OPEN MEETINGS ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 8, except as it applied to Baltimore City.

The reference to not adopting an ordinance, resolution, rule, or regulation "except in accordance with the Open Meetings Act" is substituted for the former references to "[a]ll meetings, regular and special, … shall be public meetings and open to the public at all times" and "[n]othing contained herein shall be construed to prevent any such body from holding an executive session from which the public is excluded" in light of an opinion of the Attorney General, 94 Op. Atty. Gen. Md. 161 (2009), which stated that the provisions of Art. 23A, § 8 are largely duplicative of the Open Meetings Act, except that certain resolutions that fall within the definition of an administrative function would not be covered under the Open Meetings Act but would be included under Art. 23A, § 8.

The former reference to a "finally" adopted ordinance, resolution, rule, or regulation is deleted as surplusage.

For provisions governing open meetings, *see* Title 10, Subtitle 5 of the State Government Article.

Defined term: "Municipality" § 1–101

4–106. REFERENDUM ON TAX RATES AND MUNICIPAL DEBT.

(A) REFERENDUM AUTHORIZED.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY SET A DATE AND ESTABLISH PROCEDURES FOR SUBMITTING TO THE QUALIFIED VOTERS OF THE MUNICIPALITY AT A REGULAR OR SPECIAL MUNICIPAL ELECTION A LOCAL LAW, ENACTED UNDER ARTICLE XI–E, § 5 OF THE MARYLAND CONSTITUTION, THAT SETS A MAXIMUM PROPERTY TAX RATE OR A MAXIMUM AMOUNT OF DEBT THAT MAY BE INCURRED BY THE MUNICIPALITY.

(B) MAJORITY APPROVAL REQUIRED.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY TAKE NECESSARY ACTION TO ENSURE THAT A LOCAL LAW SETTING A MAXIMUM PROPERTY TAX RATE OR A MAXIMUM AMOUNT OF DEBT THAT MAY BE INCURRED BY THE MUNICIPALITY DOES NOT TAKE EFFECT WITHOUT APPROVAL BY A MAJORITY OF THOSE WHO VOTED ON THE QUESTION AT A REGULAR OR SPECIAL MUNICIPAL ELECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 23A, § 40.

In subsection (a) of this section, the reference to "qualified" voters is added for consistency with the terminology used throughout this title.

Also in subsection (a) of this section, the former reference to submitting a local law to voters "for their approval" is deleted as surplusage.

In subsection (b) of this section, the former reference to a municipality taking "proper" action is deleted as implicit in the reference to taking "necessary" action.

Also in subsection (b) of this section, the former reference to "giv[ing] effect to the requirement of § 5 of Article XI–E of the Constitution of Maryland" is deleted as unnecessary in light of the explicit statement of the requirement that the local law does not take effect without approval by a majority of voters.

Also in subsection (b) of this section, the former reference to a local law not taking effect "in regard to a municipal corporation" is deleted as surplusage.

The second sentence of former Art. 23A, § 40, which established that this section applied to a local law enacted after the effective date of Article XI–E, is deleted as unnecessary in light of the use of the defined term "municipality".

Defined terms: "Municipality" § 1–101
"Qualified voter" § 4–101

4–107. PROPERTY QUALIFICATIONS FOR VOTING PROHIBITED.

A MUNICIPALITY MAY NOT REQUIRE AN INDIVIDUAL TO OWN OR CONTROL AN INTEREST IN PROPERTY TO PARTICIPATE IN AN ELECTION OR HOLD OFFICE IN THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 23A, § 46.

The statement that a municipality "may not require an individual to own or control an interest in property" is substituted for the former statement that a municipality "shall not impose or continue any requirement, distinction, or provision … which in any way requires the ownership of property, any property–ownership interest, or any form of control of property as a necessity or qualification" for brevity and clarity.

The former reference to "the right to vote" is deleted as included in the reference to "participate in an election".

The former reference to a requirement "in or connected with municipal elections, the right to vote therein, or the right to hold municipal office" is deleted as surplusage.

The former phrase "whether through its municipal charter or otherwise" is deleted because it is inclusive of all the ways a municipality can take action.

The second sentence of former Art. 23A, § 46, which provides that "[t]his section shall not act to deprive any person of existing rights to participate in elections, to hold public office, or to vote, which he presently has under municipal charters in the State of Maryland" is deleted as unnecessary in light of the fact that nothing in this section suggests any limitation on a person's rights.

Defined term: "Municipality" § 1–101

4–108. ABSENTEE VOTING.

(A) AUTHORIZED ABSENTEE VOTERS.

A QUALIFIED VOTER MAY VOTE IN A MUNICIPAL ELECTION BY ABSENTEE BALLOT.

(B) PROCEDURE TO VOTE ABSENTEE.

A MUNICIPALITY SHALL PROVIDE A PROCEDURE TO VOTE BY ABSENTEE BALLOT.

(C) ENABLING ABSENTEE VOTING.

A MUNICIPALITY MAY USE ANY METHOD TO ENABLE ABSENTEE VOTERS TO VOTE, INCLUDING USING ANY FACILITIES TO TRANSMIT AND RECEIVE APPLICATIONS FOR ABSENTEE BALLOTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 47.

In subsection (a) of this section, the former reference to a qualified voter "registered to vote in a municipality" is deleted as implicit in the definition of "qualified voter".

In subsection (c) of this section, the reference to a municipality "us[ing] any method" is substituted for the former reference to "do[ing] any and all acts" for clarity.

Also in subsection (c) of this section, the former reference to transmitting and receiving "envelopes, instructions and printed matter" is deleted as included in the reference to transmitting and receiving "applications for absentee ballots".

Defined terms: "Municipality" § 1–101
"Qualified voter" § 4–101

4–109. SUBMISSION OF DOCUMENTS TO DEPARTMENT OF LEGISLATIVE SERVICES.

(A) DOCUMENTS REQUIRED TO BE SUBMITTED.

(1) IF THE GOVERNING BODY OF A MUNICIPALITY CREATES, OR CAUSES THE CREATION OF, A DOCUMENT LISTED IN PARAGRAPH (2) OF THIS SUBSECTION, THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY SHALL SUBMIT ONE COPY OF THE DOCUMENT TO THE DEPARTMENT OF LEGISLATIVE SERVICES BY MAIL.

(2) A MUNICIPALITY SHALL SUBMIT:

(I) A CODE OR COMPILATION CONTAINING ALL OR PART OF THE MUNICIPAL CHARTER;

(II) IN ACCORDANCE WITH § 4–308 OF THIS TITLE, A CHARTER AMENDMENT PASSED BY THE LEGISLATIVE BODY OF THE MUNICIPALITY OR ADOPTED BY REFERENDUM, INCLUDING THE COMPLETE TEXT OF THE AMENDMENT, THE DATE OF ANY REFERENDUM, THE NUMBER OF VOTES CAST FOR AND AGAINST THE AMENDMENT BY THE LEGISLATIVE BODY OR IN A REFERENDUM, AND THE EFFECTIVE DATE OF THE AMENDMENT;

(III) IN ACCORDANCE WITH § 4–303(B), (C), AND (E) OF THIS TITLE, A COMPLETE LIST OF MEASURES THAT ADD, AMEND, OR REPEAL SECTIONS IN A MUNICIPAL CHARTER, INCLUDING EACH CHARTER SECTION AFFECTED, BY NUMBER AND TITLE;

(IV) IN ACCORDANCE WITH § 4–414(A) OF THIS TITLE, A CHARTER AMENDMENT, A RESOLUTION, A REFERENDUM, OR ANY OTHER DOCUMENT THAT CHANGES THE BOUNDARIES OF THE MUNICIPALITY, INCLUDING A COPY OF THE COMPLETE TEXT OF THE DOCUMENT WITH A

STATEMENT OF THE NEW BOUNDARIES, THE DATE OF ANY REFERENDUM, THE NUMBER OF VOTES CAST FOR AND AGAINST THE ANNEXATION BY THE LEGISLATIVE BODY OR IN A REFERENDUM, AND THE EFFECTIVE DATE OF THE ANNEXATION;

(V) IN ACCORDANCE WITH § 4–508(B) OF THIS TITLE, A UNIFIED CHARTER FOR MERGING MUNICIPALITIES, INCLUDING THE COMPLETE TEXT OF THE UNIFIED CHARTER, THE DATE OF ANY REFERENDUM, THE NUMBER OF VOTES CAST FOR AND AGAINST THE ADOPTION OF THE UNIFIED CHARTER BY THE LEGISLATIVE BODIES OR A REFERENDUM, AND THE EFFECTIVE DATE OF THE UNIFIED CHARTER;

(VI) IN ACCORDANCE WITH § 4–214(A) OF THIS TITLE, A CHARTER CREATING A MUNICIPALITY, INCLUDING THE COMPLETE TEXT OF THE CHARTER, THE DATE OF THE REFERENDUM, THE NUMBER OF VOTES CAST FOR AND AGAINST THE CHARTER, AND THE EFFECTIVE DATE OF THE CHARTER;

(VII) IN ACCORDANCE WITH § 4–313(A), (B), AND (C) OF THIS TITLE, A CHARTER AMENDMENT REPEALING THE ENTIRE MUNICIPAL CHARTER PASSED BY THE LEGISLATIVE BODY OF THE MUNICIPALITY OR ADOPTED BY REFERENDUM, INCLUDING THE COMPLETE TEXT OF THE AMENDMENT, THE DATE OF ANY REFERENDUM, THE NUMBER OF VOTES CAST FOR AND AGAINST THE AMENDMENT BY THE LEGISLATIVE BODY OR IN A REFERENDUM, AND THE EFFECTIVE DATE OF THE AMENDMENT; AND

(VIII) IN ACCORDANCE WITH § 4–310(D) OF THIS TITLE, A STATEMENT ON THE RESULTS OF ANY REFERENDUM ON A PROPOSED CHARTER AMENDMENT HELD DURING THE YEAR, OR ANY ACTUAL OR POTENTIAL PENDING REFERENDUM THAT HAD NOT BEEN HELD BY THE END OF THE YEAR.

(B) DELIVERY DEADLINES.

THE CHIEF EXECUTIVE OFFICER OF EACH MUNICIPALITY SHALL SEND TO THE DEPARTMENT OF LEGISLATIVE SERVICES:

(1) ANY CHARTER AMENDMENT RESOLUTION WITHIN 10 DAYS AFTER THE RESOLUTION BECOMES EFFECTIVE UNDER § 4–304(C) OR 4–307(E) OF THIS TITLE; AND

(2) ANY ANNEXATION RESOLUTION WITHIN 10 DAYS AFTER THE RESOLUTION BECOMES EFFECTIVE UNDER § 4–407 OR § 4–412(D) OF THIS TITLE.

(C) FORWARDING TO STATE ARCHIVES.

THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL FORWARD EACH DOCUMENT THE DEPARTMENT RECEIVES UNDER THIS DIVISION TO THE STATE ARCHIVES AT LEAST ONCE EACH YEAR FOR PERMANENT STORAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 9A and 17C.

In this section and throughout this title, the former references to a referendum "election" are deleted as implicit in the reference to a "referendum".

In subsection (a)(1) of this section, the former reference to causing a document to be "implemented or otherwise established" is deleted as included in the reference to causing a document to be "creat[ed]".

Also in subsection (a)(1) of this section, the former reference to the municipality sending "or caus[ing] to be sent, separately" by mail is deleted as surplusage.

Also in subsection (a)(1) of this section, the former reference to the documents being mailed "bearing a postmark from the United States Postal Service" is deleted as implicit in the requirement to mail a document.

In subsection (a)(2)(i) of this section, the former reference to the code or compilation being submitted "as provided for in § 9(e) of [former Art. 23A]" is deleted as unnecessary in light of the requirements of this division for submitting documents.

Also in subsection (a)(2)(i) of this section, the former reference to a code or compilation "published or issued in printed, mimeographed or similar duplicated form" is deleted as implicit that a copy would be submitted in some published format.

In subsection (a)(2)(ii) and (vii) of this section, the former references to an amendment "ordained" are deleted as included in the references to an amendment "passed".

Also in subsection (a)(2)(ii) and (vii) of this section, the former references to an amendment being adopted by "the vote on the question" at a referendum are deleted as implicit in the references to the amendment being "adopted by referendum".

In subsection (a)(2)(ii) of this section, the former references to "amendments" are deleted as included in the references to an "amendment" and Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (a)(2)(ii) of this section, the former reference to the votes cast for and against "each question containing" the amendment is deleted as surplusage.

In subsection (a)(2)(iv) of this section, the references to a "document" are substituted for the former reference to a "device" for clarity and consistency with other provisions of this section.

Also in subsection (a)(2)(iv) of this section, the reference to a "resolution" is substituted for the former reference to an "ordinance" for accuracy.

Also in subsection (a)(2)(iv) of this section, the former reference to the "corporate" boundaries of a municipality is deleted as implicit in that the boundaries of a municipality would by definition be the corporate boundaries.

Also in subsection (a)(2)(iv) of this section, the former reference to the boundaries of a municipality being "enlarged" is deleted as included in the reference to the boundaries being "chang[ed]".

In subsection (a)(2)(v) of this section, the former reference to the merger "of two or more" municipalities is deleted as surplusage.

In subsection (a)(2)(vi) of this section, the reference to votes cast for and against the "charter" is substituted for the former reference to votes cast for and against the "question of incorporation, under the charter" for brevity.

Also in subsection (a)(2)(vi) of this section, the cross–reference to "§ 4–214(a) of this title" is substituted for the former erroneous cross–reference to "§ 27(a) of this article", revised as § 4–213(a) of this subtitle, for accuracy.

In subsection (c) of this section, the former reference to the permanent "retention" of documents is deleted as included in the reference to the permanent "storage" of documents.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference to a "potential pending" referendum in subsection (a)(2)(viii) of this section is unclear.

Defined terms: "Governing body" § 1–101

"Municipal charter" § 4–101
"Municipality" § 1–101

4–110. PUBLICATION OF CODE OF ORDINANCES.

(A) "ORDINANCE" DEFINED.

(1) IN THIS SECTION, "ORDINANCE" MEANS A LEGISLATIVE ENACTMENT OF GENERAL APPLICATION AND CONTINUING FORCE FOR A MUNICIPALITY.

(2) "ORDINANCE" DOES NOT INCLUDE A PUBLIC LOCAL LAW UNDER § 9–102 OF THIS ARTICLE.

(B) WHEN PUBLICATION REQUIRED.

EACH YEAR, IF A MUNICIPALITY ENACTS ANY ORDINANCE APPROPRIATE FOR CODIFICATION DURING THE YEAR, THE GOVERNING BODY OF A MUNICIPALITY SHALL PROVIDE FOR THE PREPARATION AND DISTRIBUTION OF A SUPPLEMENT TO OR NEW EDITION OF ITS CODE OF ORDINANCES.

(C) REQUIRED CONTENTS.

(1) A SUPPLEMENT PUBLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL CONTAIN EACH ORDINANCE THAT IS IN EFFECT AND HAS BEEN ENACTED OR AMENDED SINCE THE MUNICIPALITY'S MOST RECENT CODE OF ORDINANCES WAS PUBLISHED.

(2) A NEW CODE PUBLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL CONTAIN EACH ORDINANCE THAT IS IN EFFECT AT THE TIME OF PUBLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 17D(b), (c), and, except as it related to Baltimore City, (a).

In subsection (a)(1) of this section, the former reference to a legislative enactment "by whatever name known" is deleted as surplusage.

In subsection (b) of this section, the former phrase "[f]or the purpose of providing ready access to a current compilation of the municipal corporation's ordinances," is deleted as surplusage.

Also in subsection (b) of this section, the former reference to "editing" the code is deleted as included in the reference to "preparation" of the code.

Also in subsection (b) of this section, the former references to "publication" and "sale" of the code are deleted as included in the reference to "distribution" of the code.

Also in subsection (b) of this section, the former reference to the "most recent" code of ordinances is deleted as implicit in the requirement to distribute any ordinances enacted during the year.

In subsection (c) of this section, the references to a supplement and new code "published under subsection (b) of this section" are added for clarity.

Also in subsection (c) of this section, the former statement that "[a] supplement or a code need not contain ordinances of less than general application and continuing force, including (without limitation) the budget ordinance" is deleted as redundant of the definition of "ordinance" in subsection (a) of this section.

Also in subsection (c) of this section, the former references to public ordinances in effect "for the municipal corporation" are deleted as implicit in that a municipality would be required to publish only their own ordinances, not those applicable to another municipality.

In subsection (c)(1) of this section, the reference to the "municipality's" most recent code of public ordinances is added for clarity.

Former Art. 23A, § 17D(d), which required each municipality to impose taxes and appropriate its public funds for necessary expenditures, is deleted as implicit in the requirement that the municipality perform the mandate.

As for provisions governing Baltimore City, *see* § 9–103 of this article.

Defined terms: "Governing body" § 1–101
"Municipality" § 1–101

4–111. APPLICATION OF COUNTY LEGISLATION TO MUNICIPALITIES.

(A) "LEGISLATION" DEFINED.

IN THIS SECTION, "LEGISLATION" MEANS ANY FORM OF COUNTY OR MUNICIPAL LEGISLATIVE ENACTMENT, INCLUDING A LAW, AN ORDINANCE, A RESOLUTION, OR ANY ACTION BY WHICH A COUNTY BUDGET IS ADOPTED.

(B) MUNICIPALITY EXEMPT.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, LEGISLATION ENACTED BY A COUNTY DOES NOT APPLY IN A MUNICIPALITY LOCATED IN THE COUNTY IF THE LEGISLATION:

(1) BY ITS TERMS, EXEMPTS THE MUNICIPALITY;

(2) CONFLICTS WITH LEGISLATION OF THE MUNICIPALITY ENACTED UNDER A GRANT OF LEGISLATIVE AUTHORITY PROVIDED BY PUBLIC GENERAL LAW OR THE MUNICIPAL CHARTER; OR

(3) (I) RELATES TO A SUBJECT ON WHICH A PUBLIC GENERAL LAW OR THE MUNICIPAL CHARTER GRANTS THE MUNICIPALITY LEGISLATIVE AUTHORITY; AND

(II) THE MUNICIPALITY BY ORDINANCE OR CHARTER AMENDMENT:

1. SPECIFICALLY EXEMPTS ITSELF FROM THE COUNTY LEGISLATION; OR

2. GENERALLY EXEMPTS ITSELF FROM COUNTY LEGISLATION COVERED BY THE TYPE OF GRANT OF AUTHORITY TO THE MUNICIPALITY.

(C) MUNICIPALITY NOT EXEMPT.

THE FOLLOWING CATEGORIES OF COUNTY LEGISLATION, IF WITHIN THE SCOPE OF LEGISLATIVE POWERS GRANTED TO A COUNTY BY THE GENERAL ASSEMBLY, APPLY IN ALL MUNICIPALITIES IN THE COUNTY:

(1) COUNTY LEGISLATION MADE APPLICABLE TO ALL MUNICIPALITIES IN THE COUNTY UNDER A LAW ENACTED BY THE GENERAL ASSEMBLY;

(2) COUNTY REVENUE OR TAX LEGISLATION, SUBJECT TO TITLE 16, SUBTITLE 5 AND TITLE 20 OF THIS ARTICLE, THE TAX – GENERAL ARTICLE, AND THE TAX – PROPERTY ARTICLE, OR LEGISLATION ADOPTING A COUNTY BUDGET; AND

(3) SUBJECT TO SUBSECTION (E) OF THIS SECTION, COUNTY LEGISLATION THAT IS ENACTED IN ACCORDANCE WITH COUNTY REQUIREMENTS

FOR LEGISLATION THAT IS TO BECOME EFFECTIVE IMMEDIATELY AND FOR WHICH THE LEGISLATIVE BODY OF THE COUNTY:

(I) MAKES A SPECIFIC FINDING BASED ON EVIDENCE OF RECORD AFTER A HEARING HELD UNDER ITEM (II) OF THIS ITEM THAT THERE WILL BE SIGNIFICANT ADVERSE IMPACT ON THE PUBLIC HEALTH, SAFETY, OR WELFARE AFFECTING RESIDENTS OF THE COUNTY IN UNINCORPORATED AREAS IF THE LEGISLATION DOES NOT APPLY IN ALL MUNICIPALITIES IN THE COUNTY;

(II) CONDUCTS A PUBLIC HEARING AT WHICH ALL MUNICIPALITIES IN THE COUNTY AND ANY INTERESTED PERSONS HAVE AN OPPORTUNITY TO BE HEARD;

(III) 1. PROVIDES NOTICE OF THE HEARING BY CERTIFIED MAIL TO ALL MUNICIPALITIES IN THE COUNTY AT LEAST 30 DAYS BEFORE THE HEARING; AND

2. PUBLISHES NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY FOR 3 SUCCESSIVE WEEKS, BEGINNING AT LEAST 30 DAYS BEFORE THE HEARING; AND

(IV) ENACTS THE COUNTY LEGISLATION BY AN AFFIRMATIVE VOTE OF AT LEAST TWO–THIRDS OF THE AUTHORIZED MEMBERSHIP OF THE COUNTY LEGISLATIVE BODY.

(D) JUDICIAL REVIEW OF COUNTY LEGISLATION.

(1) COUNTY LEGISLATION ENACTED IN ACCORDANCE WITH SUBSECTION (C)(3) OF THIS SECTION IS SUBJECT TO JUDICIAL REVIEW BY THE CIRCUIT COURT OF THE COUNTY, IN ACCORDANCE WITH THE MARYLAND RULES GOVERNING APPEALS FROM ADMINISTRATIVE AGENCIES, OF:

(I) THE FINDING MADE UNDER SUBSECTION (C)(3)(I) OF THIS SECTION; AND

(II) THE LEGISLATION'S APPLICABILITY TO MUNICIPALITIES LOCATED IN THE COUNTY.

(2) AN APPEAL UNDER THIS SUBSECTION SHALL BE FILED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE COUNTY LEGISLATION.

(3) IN A JUDICIAL PROCEEDING UNDER THIS SUBSECTION, THE ONLY ISSUES THAT MAY BE CONSIDERED ARE WHETHER THE COUNTY LEGISLATIVE BODY:

(I) COMPLIED WITH THE PROCEDURES OF SUBSECTION (C)(3) OF THIS SECTION; AND

(II) HAD SUFFICIENT EVIDENCE FROM WHICH A REASONABLE PERSON COULD CONCLUDE THAT THERE WILL BE A SIGNIFICANT ADVERSE IMPACT ON THE PUBLIC HEALTH, SAFETY, OR WELFARE AFFECTING RESIDENTS OF THE COUNTY IN UNINCORPORATED AREAS IF THE COUNTY LEGISLATION DOES NOT APPLY IN ALL MUNICIPALITIES IN THE COUNTY.

(4) THE COURT SHALL DECIDE THE ISSUES UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHOUT A JURY.

(5) IF A COURT REVERSES A LEGISLATIVE BODY'S FINDING UNDER SUBSECTION (C)(3)(I) OF THIS SECTION:

(I) THE LEGISLATION SHALL CONTINUE TO APPLY IN UNINCORPORATED AREAS OF THE COUNTY; AND

(II) THE APPLICABILITY OF THE LEGISLATION IN A MUNICIPALITY IS GOVERNED BY SUBSECTION (B) OF THIS SECTION.

(6) A COUNTY OR MUNICIPALITY IN THE COUNTY MAY APPEAL THE DECISION OF A CIRCUIT COURT IN A PROCEEDING UNDER THIS SUBSECTION TO THE COURT OF SPECIAL APPEALS.

(E) AREAS OF MUNICIPAL LEGISLATION.

COUNTY LEGISLATION ENACTED IN ACCORDANCE WITH SUBSECTION (C)(3) OF THIS SECTION DOES NOT APPLY, OR BECOMES INAPPLICABLE, IN A MUNICIPALITY THAT HAS ENACTED OR ENACTS MUNICIPAL LEGISLATION THAT:

(1) COVERS THE SAME SUBJECT MATTER AND FURTHERS THE SAME POLICIES AS THE COUNTY LEGISLATION;

(2) IS AT LEAST AS RESTRICTIVE AS THE COUNTY LEGISLATION; AND

(3) INCLUDES PROVISIONS FOR ENFORCEMENT.

(F) COUNTY ENFORCEMENT OF MUNICIPAL LEGISLATION.

(1) BY ORDINANCE, A MUNICIPALITY MAY REQUEST AND AUTHORIZE THE COUNTY IN WHICH IT IS LOCATED TO ADMINISTER OR ENFORCE ANY MUNICIPAL LEGISLATION.

(2) AFTER A MUNICIPALITY ENACTS AN ORDINANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION, A COUNTY MAY ADMINISTER OR ENFORCE THE MUNICIPAL LEGISLATION ON MUTUALLY AGREED TERMS.

(G) CONSTRUCTION.

THE OTHER PROVISIONS OF THIS ARTICLE ARE CONSIDERED AMENDED AS PROVIDED IN THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 2C and 2B(a) through (d) and (e)(2).

In subsection (b)(3)(ii) of this section, the former reference to an ordinance or amendment "having prospective or retrospective applicability, or both" is deleted as unnecessary because it is inclusive of every application.

In the introductory language of subsection (c) of this section, the former phrase "[n]otwithstanding the provisions of [subsection (b)(2) and (3)] of this section," is deleted as surplusage.

In subsection (c)(1) of this section, the reference to county legislation "made applicable to all municipalities in the county under a law enacted by the General Assembly" is substituted for the former reference to county legislation "where a law enacted by the General Assembly so provides" for clarity.

In the introductory language of subsection (d)(3) of this section, the reference to issues "that may be considered" in a judicial proceeding is added for clarity.

In subsection (f) of this section, the former reference to "conditions" is deleted as included in the reference to "terms".

In subsection (g) of this section, the former reference to "modified" is deleted as included in the reference to "amended".

Former Art. 23A, § 2B(e)(1), which defined "county" to mean any county regardless of the form of government, is deleted in light of the definition of "county" in § 1–101 of this article.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the meaning and intent of subsection (g) of this section is unclear. The General Assembly may wish to clarify the meaning of this subsection or repeal it.

Defined terms: "County" § 1–101
"Municipal charter" § 4–101
"Municipality" § 1–101
"Person" § 1–101

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 23A, § 5, which specified that if a provision or a certain application of a provision of Article 23A was held invalid, the remainder of the article and other applications would not be affected, is deleted as unnecessary in light of Art. 1, § 23, which states that statutes enacted after July 1, 1973, are severable unless the statute specifically provides that its provisions are not severable.

SUBTITLE 2. INCORPORATION OF MUNICIPALITIES.

4–201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 20(a)(1).

No changes are made.

(B) COUNTY LIAISON.

"COUNTY LIAISON" MEANS A COUNTY OFFICIAL, OR THE DESIGNEE OF THE COUNTY OFFICIAL, WHO COORDINATES COMMUNICATION BETWEEN THE ORGANIZING COMMITTEE AND THE COUNTY.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 20(a)(3).

The only changes are in style.

Defined terms: "County" § 1–101
"Organizing committee" § 4–201

(C) ORGANIZING COMMITTEE.

"ORGANIZING COMMITTEE" MEANS THE GROUP OF INDIVIDUALS FROM THE ORGANIZING COMMUNITY THAT WORKS WITH THE COUNTY COMMISSIONERS OR COUNTY COUNCIL ON THE PROPOSED MUNICIPAL INCORPORATION AFTER A PETITION FOR INCORPORATION IS VERIFIED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 23A, § 20(a)(4).

Defined term: "Organizing community" § 4–201

(D) ORGANIZING COMMUNITY.

"ORGANIZING COMMUNITY" MEANS INDIVIDUALS RESIDING IN AN UNINCORPORATED AREA WHO ARE INTERESTED IN FORMING A MUNICIPALITY.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 20(a)(5).

The former reference to a "particular" unincorporated area is deleted as surplusage.

The only other changes are in style.

Defined term: "Municipality" § 1–101

REVISOR'S NOTE TO SECTION:

Former Art. 23A, § 20(a)(2), which defined "county governing body" to be the board of county commissioners or county council of a county, is deleted and instead the terms "county commissioners" and "county council" are used throughout this subtitle for consistency with other similar provisions of this article.

4–202. APPLICATION OF SUBTITLE.

THIS SUBTITLE GOVERNS MUNICIPAL INCORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 23A, § 20(b).

The reference to the "municipal" incorporation is substituted for the former reference to the incorporation "of any area … not then existing as a municipal corporation" for brevity.

The former reference to a "group of individuals" is deleted as unnecessary because it is the area that defines the municipality.

Defined term: "Municipality" § 1–101

4–203. MINIMUM NUMBER OF RESIDENTS REQUIRED.

AN AREA PROPOSED TO BE INCORPORATED SHALL CONTAIN AT LEAST 300 RESIDENTS BEFORE THE ORGANIZING COMMUNITY MAY PROCEED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 23A, § 20(b).

The reference to "the organizing community" is substituted for the former reference to "it" to clarify that it is the organizing community that acts on behalf of the area proposed to be incorporated.

The former reference to "bona fide" residents is deleted as surplusage.

Defined term: "Organizing community" § 4–201

4–204. PETITION FOR INCORPORATION.

(A) INITIATION OF PROPOSAL TO INCORPORATE.

A PROPOSAL TO INCORPORATE AN AREA AS A MUNICIPALITY IS INITIATED WHEN A VALID PETITION IS PRESENTED TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF A COUNTY BY:

(1) AT LEAST 25% OF THE REGISTERED VOTERS WHO ARE RESIDENTS OF THE AREA PROPOSED TO BE INCORPORATED; OR

(2) AT LEAST 20% OF THE REGISTERED VOTERS WHO ARE RESIDENTS OF THE AREA PROPOSED TO BE INCORPORATED, TOGETHER WITH THE OWNERS OF AT LEAST 25% OF THE ASSESSED VALUATION OF THE REAL PROPERTY OF THE AREA PROPOSED TO BE INCORPORATED.

(B) CREATION AND PROVISION OF STANDARD PETITION FORM.

THE OFFICE OF THE ATTORNEY GENERAL SHALL:

(1) CREATE A STANDARD PETITION FORM FOR USE BY AN ORGANIZING COMMUNITY; AND

(2) PROVIDE THE BOARD OF ELECTIONS OF EACH COUNTY WITH THE FORM FOR DISTRIBUTION TO AN ORGANIZING COMMUNITY.

(C) CONTENTS OF PETITION.

A PETITION PRESENTED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) EXPRESS THE INTEREST OF THE SUBSCRIBING INDIVIDUALS IN THE INCORPORATION OF THE AREA;

(2) CONTAIN A DETAILED DESCRIPTION OF THE BOUNDARIES OF THE AREA PROPOSED TO BE INCORPORATED, INCLUDING A SURVEY OF COURSES AND DISTANCES OR GENERAL LANDMARKS AND PLACE NAMES;

(3) STATE THE NAME OF THE NEW MUNICIPALITY, WHICH MAY NOT BE THE SAME AS A NAME USED BY A MUNICIPALITY OR COUNTY IN THE STATE; AND

(4) STATE THE NAMES OF THE INDIVIDUALS WHO WILL INITIALLY REPRESENT THE ORGANIZING COMMUNITY ON THE ORGANIZING COMMITTEE.

(D) DEADLINE FOR OBTAINING SIGNATURES.

THE ORGANIZING COMMUNITY SHALL OBTAIN THE MINIMUM NUMBER OF VALID SIGNATURES REQUIRED UNDER SUBSECTION (A) OF THIS SECTION WITHIN 18 MONTHS AFTER THE ORGANIZING COMMUNITY RECEIVES THE STANDARD PETITION FORM FROM THE COUNTY BOARD OF ELECTIONS.

(E) INFORMATION PROVIDED BY PERSON SIGNING PETITION.

EACH PERSON SIGNING THE PETITION SHALL INDICATE ON THE PETITION:

(1) THE PERSON'S NAME AND RESIDENCE ADDRESS; AND

(2) IF THE PETITION IS INTENDED TO BE PRESENTED UNDER SUBSECTION (A)(2) OF THIS SECTION AND THE PERSON SIGNING THE PETITION OWNS REAL PROPERTY IN THE AREA PROPOSED TO BE INCORPORATED, THE LOCATION AND ASSESSED VALUATION OF THE PROPERTY.

(F) DUTIES OF COUNTY COMMISSIONERS OR COUNTY COUNCIL ON RECEIPT OF PETITION.

WITHIN 60 DAYS AFTER RECEIVING A PETITION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(1) VERIFY THAT EACH PERSON WHO SIGNED THE PETITION:

(I) RESIDES IN THE AREA PROPOSED TO BE INCORPORATED;

(II) IS REGISTERED TO VOTE IN THE ELECTIONS OF THAT COUNTY; AND

(III) IF APPLICABLE, OWNS REAL PROPERTY WITHIN THE AREA PROPOSED TO BE INCORPORATED;

(2) VERIFY THAT THE PETITION MEETS THE REQUIREMENTS OF THIS SECTION; AND

(3) APPOINT A COUNTY LIAISON IF THE PETITION MEETS THE REQUIREMENTS OF THIS SECTION.

(G) FILED PETITION PROPERTY OF COUNTY COMMISSIONERS OR COUNTY COUNCIL.

A PETITION, WHEN RECEIVED, BECOMES THE PROPERTY OF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AND MAY NOT BE USED TO INITIATE ANOTHER INCORPORATION.

(H) RESCISSION.

A PROPOSAL TO INCORPORATE A MUNICIPALITY AND TO ADOPT A MUNICIPAL CHARTER MAY NOT BE RESCINDED AFTER THE FORMAL SUBMISSION OF THE PROPOSAL IN A MANNER OTHER THAN THAT OF A FORMAL CHARTER REPEAL AS PROVIDED IN §§ 4–313 AND 4–314 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 21 and 28(b).

In this section and throughout this subtitle, the former references to the board "of supervisors" of elections are deleted for accuracy.

In subsection (a) of this section, the references to "registered voters" are substituted for the former references to "individuals … who are registered to vote in county elections" for brevity.

In subsection (b)(1) of this section, the former reference to an organizing community "within the State" is deleted as surplusage.

In subsection (e)(2) of this section, the reference to the "petition is intended to be presented" is substituted for the former reference to the "organizing community pursues the incorporation petition" for clarity.

In subsection (f)(1)(i) of this section, the former reference to the "particular" area is deleted as surplusage.

In subsection (g) of this section, the reference to a petition "received" is substituted for the former reference to a petition "filed" for clarity.

Also in subsection (g) of this section, the reference to not using a petition "to initiate another incorporation" is substituted for the former reference to not using a petition "for the purposes of initiating further referenda" for clarity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference in subsection (h) of this section to the "formal submission" of the charter is unclear. The Committee believes it refers to the submission of the charter to the county for use in a referendum.

Defined terms: "County" § 1–101
"County liaison" § 4–201
"Municipality" § 1–101
"Organizing committee" § 4–201
"Organizing community" § 4–201
"Person" § 1–101
"State" § 1–101

4–205. REPORT OF ORGANIZING COMMITTEE.

(A) COUNTY INPUT; PUBLIC MEETING; REPORT.

(1) WITHIN 90 DAYS AFTER THE COUNTY COMMISSIONERS OR COUNTY COUNCIL HAS VERIFIED THAT A PETITION PRESENTED UNDER § 4–204 OF THIS SUBTITLE IS VALID, THE ORGANIZING COMMITTEE SHALL:

(I) ACTIVELY SEEK INFORMATION AND INPUT FROM THE COUNTY;

(II) HOLD A PUBLIC MEETING TO COLLECT TESTIMONY ON THE PROPOSED INCORPORATION; AND

(III) PROVIDE THE COUNTY COMMISSIONERS OR COUNTY COUNCIL WITH A REPORT ON ISSUES RELATED TO THE PROPOSED INCORPORATION.

(2) DURING THE 90–DAY PERIOD, THE COUNTY SHALL COOPERATE FULLY WITH THE ORGANIZING COMMITTEE.

(B) DUTIES TO COUNTY LIAISON.

THE ORGANIZING COMMITTEE SHALL:

(1) NOTIFY THE COUNTY LIAISON OF ALL MEETINGS AND DELIBERATIONS OF THE ORGANIZING COMMITTEE; AND

(2) GIVE THE COUNTY LIAISON FULL OPPORTUNITY TO PARTICIPATE IN ALL MEETINGS AND DELIBERATIONS OF THE ORGANIZING COMMITTEE.

(C) COUNTY COMMISSIONERS OR COUNTY COUNCIL TO REVIEW REPORT.

WITHIN 45 DAYS AFTER RECEIVING THE REPORT REQUIRED UNDER SUBSECTION (A)(1)(III) OF THIS SECTION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OR ITS DESIGNEE MAY REVIEW THE REPORT AND PROVIDE COMMENTS TO THE ORGANIZING COMMITTEE ON ISSUES RELATING TO THE PROPOSED INCORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 22.

In the introductory language of subsection (a) of this section, the reference to a petition presented "under § 4–204 of this subtitle" is added for clarity.

In subsection (a)(1)(ii) of this section, the former reference to collecting "public" testimony is deleted as implicit in the requirement that the testimony be taken at a public meeting.

Defined terms: "County" § 1–101
"County liaison" § 4–201
"Organizing committee" § 4–201

4–206. SUBMISSION OF PROPOSED MUNICIPAL CHARTER.

(A) PROPOSED MUNICIPAL CHARTER.

THE ORGANIZING COMMITTEE SHALL PRESENT TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL A PROPOSED MUNICIPAL CHARTER:

(1) WITHIN 45 DAYS AFTER RECEIVING THE COMMENTS SUBMITTED TO THE ORGANIZING COMMITTEE UNDER § 4–205(C) OF THIS SUBTITLE; OR

(2) IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL HAS NOT SUBMITTED COMMENTS, WITHIN 90 DAYS AFTER THE REPORT IS SUBMITTED BY THE ORGANIZING COMMITTEE UNDER § 4–205(A)(1)(III) OF THIS SUBTITLE.

(B) PROPOSED MUNICIPAL CHARTER STATEMENTS.

THE ORGANIZING COMMITTEE SHALL SUBMIT STATEMENTS WITH THE PROPOSED MUNICIPAL CHARTER DESCRIBING:

(1) THE LIKELY FISCAL EFFECT OF THE PROPOSED INCORPORATION ON RESIDENTS OF THE PROPOSED MUNICIPALITY, RESIDENTS IN THE VICINITY OF THE PROPOSED MUNICIPALITY, AND THE COUNTY;

(2) THE SERVICES THAT THE PROPOSED MUNICIPALITY IS EXPECTED TO PROVIDE; AND

(3) THE IMPACT THAT THE PROPOSED INCORPORATION IS EXPECTED TO HAVE ON PROPERTY TAX RATES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 23.

In this section and throughout this subtitle, the references to a "municipal" charter are added for clarity.

In the introductory language of subsection (a) of this section, the former phrase "for use in the referendum election" is deleted as surplusage.

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

In subsection (b)(2) and (3) of this section, the references to the services and impact the municipality "is expected to" provide or have are

substituted for the former references to the services and impact the municipality "will" provide or have because the information submitted would have to be based on assumptions made by the organizing committee.

Defined terms: "County" § 1–101
"Municipal charter" § 4–101
"Municipality" § 1–101
"Organizing committee" § 4–201

4–207. REFERENDUM REQUEST.

(A) APPROVAL OF REFERENDUM REQUEST.

(1) IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL APPROVES THE REFERENDUM REQUEST, BETWEEN 40 AND 60 DAYS AFTER IT RECEIVES THE PROPOSED MUNICIPAL CHARTER, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL SPECIFY, BY RESOLUTION, THE DAY AND HOURS FOR A VOTE ON THE PROPOSED INCORPORATION BY THE VOTERS OF THE AREA TO BE INCORPORATED.

(2) THE RESOLUTION SHALL INCLUDE THE EXACT TEXT OF THE PROPOSED MUNICIPAL CHARTER AS SUBMITTED BY THE ORGANIZING COMMITTEE.

(B) REJECTION OF REFERENDUM REQUEST.

(1) IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL REJECTS THE REFERENDUM REQUEST, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL:

(I) PROVIDE IN WRITING AND MAKE AVAILABLE TO THE PUBLIC WITHIN A REASONABLE TIME THE REASONS FOR THE REJECTION; AND

(II) ESTABLISH REASONABLE PROCEDURES BY WHICH THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL RECONSIDER A REFERENDUM REQUEST, INCLUDING AN OPPORTUNITY FOR A PUBLIC HEARING WITH SUFFICIENT ADVANCE PUBLIC NOTICE.

(2) AFTER THE HEARING AND RECONSIDERATION PROCESS IS COMPLETED, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL, BY RESOLUTION, SHALL AFFIRM THE REJECTION OR APPROVE THE REFERENDUM REQUEST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 24.

In subsection (a)(1) of this section, the phrase "[i]f the county commissioners or county council approves the referendum request," is added for consistency with subsection (b) of this section.

Also in subsection (a)(1) of this section, the reference to the days and hours for a "vote" is substituted for the former reference to the days and hours for a "special referendum election" for brevity.

Also in subsection (a)(1) of this section, the former reference to receiving the charter "from the organizing committee" is deleted as unnecessary because § 4–206 of this subtitle directs the organizing committee to present the charter.

In subsection (a)(2) of this section, the former reference to the wording of the proposed charter "to be voted on at the time of the referendum" is deleted as surplusage.

Defined term: "Organizing committee" § 4–201

4–208. POSTING AND PUBLICATION.

(A) NOTICE TO VOTERS.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL NOTIFY THE VOTERS OF THE AREA PROPOSED TO BE INCORPORATED BY POSTING AND PUBLICATION OF THE PROPOSAL TO INCORPORATE, INCLUDING A FAIR SUMMARY OF THE PROPOSED MUNICIPAL CHARTER.

(B) POSTING COPY OF PROPOSED MUNICIPAL CHARTER BEFORE REFERENDUM.

FOR AT LEAST 4 WEEKS IMMEDIATELY BEFORE THE REFERENDUM, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL MAKE AVAILABLE AN EXACT COPY OF THE PROPOSED MUNICIPAL CHARTER FOR PUBLIC INSPECTION AT ITS OFFICE.

(C) PUBLICATION OF NOTICE.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL PUBLISH NOTICE OF THE REFERENDUM, TOGETHER WITH A FAIR SUMMARY OF THE PROPOSED MUNICIPAL CHARTER, IN A NEWSPAPER OF GENERAL CIRCULATION

IN THE AREA PROPOSED TO BE INCORPORATED AT LEAST ONCE A WEEK DURING THE 4 WEEKS IMMEDIATELY BEFORE THE REFERENDUM.

(D) COPY OF PROPOSED MUNICIPAL CHARTER AVAILABLE ON ELECTION DAY.

ON THE DAY OF THE REFERENDUM, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL MAKE AVAILABLE AN EXACT COPY OF THE PROPOSED MUNICIPAL CHARTER FOR PUBLIC INSPECTION AT EACH PLACE FOR VOTING ON THE REFERENDUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 25.

In subsections (b), (c), and (d) of this section, the references to a "referendum" are substituted for the former references to an "election" for consistency with other similar provisions of this subtitle.

In subsections (b) and (d) of this section, the former reference to "post[ing]" a copy is deleted as included in the reference to "mak[ing] available" a copy.

In subsection (b) of this section, the former reference to a "complete" copy of the proposed charter is deleted as included in the reference to an "exact" copy of the proposed charter.

Also in subsection (b) of this section, the former reference to an exact copy of the "wording of the" proposed municipal charter is deleted as surplusage.

Also in subsection (b) of this section, the former reference to the referendum "at which the question is to be submitted" is deleted as surplusage.

In subsection (c) of this section, the former reference to "newspapers" is deleted in light of the reference to a "newspaper" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in subsection (d) of this section, the former reference to "places" is deleted in light of the reference to "place".

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

In subsection (d) of this section, the reference to an "exact copy of the proposed municipal charter" is substituted for the former reference to a

"copy" for clarity and consistency with the terminology in subsection (b) of this section.

Also in subsection (d) of this section, the reference to voting on the "referendum" is substituted for the former reference to voting on the "question of incorporation" for clarity.

Defined term: "Municipal charter" § 4–101

4–209. REFERENDUM; PROCLAMATION OF RESULT.

(A) IN GENERAL.

EXCEPT AS EXPRESSLY OR NECESSARILY MODIFIED BY THIS SUBTITLE, A REFERENDUM SHALL BE CONDUCTED GENERALLY ACCORDING TO THE PROCEDURES AND PRACTICES FOR REGULAR COUNTYWIDE ELECTIONS.

(B) CONDUCT OF REFERENDUM; BALLOTS.

(1) ON THE DAY AND DURING THE HOURS SPECIFIED FOR THE REFERENDUM, THE QUESTION OF INCORPORATION UNDER THE PROPOSED MUNICIPAL CHARTER SHALL BE SUBMITTED TO THE REGISTERED VOTERS OF THE AREA PROPOSED TO BE INCORPORATED.

(2) THE COUNTY BOARD OF ELECTIONS SHALL ARRANGE FOR AND CONDUCT THE REFERENDUM.

(3) THE WORDING SPECIFIED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL IN THE RESOLUTION AUTHORIZING A REFERENDUM ON THE QUESTION OF THE PROPOSED INCORPORATION SHALL BE PLACED ON THE BALLOTS USED AT THE REFERENDUM.

(C) TALLY AND CERTIFICATION OF RESULTS.

PROMPTLY AFTER THE CANVASS IS COMPLETE, THE COUNTY BOARD OF ELECTIONS SHALL CERTIFY THE RESULTS TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(D) PROCLAMATION OF RESULTS; EFFECT OF REFERENDUM.

WITHIN 10 DAYS AFTER RECEIVING A CERTIFICATION OF THE VOTE ON THE REFERENDUM FROM THE COUNTY BOARD OF ELECTIONS:

(1) IF A MAJORITY OF THOSE WHO VOTED ON THE QUESTION VOTED IN FAVOR OF INCORPORATION UNDER THE PROPOSED MUNICIPAL CHARTER:

(I) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL PUBLICLY SHALL SO PROCLAIM; AND

(II) ON THE 30TH DAY AFTER THE PUBLIC PROCLAMATION, THE AREA PROPOSED TO BE INCORPORATED SHALL BECOME A MUNICIPALITY OPERATING UNDER THE MUNICIPAL CHARTER; OR

(2) IF LESS THAN A MAJORITY OF THOSE WHO VOTED ON THE QUESTION VOTED IN FAVOR OF INCORPORATION UNDER THE PROPOSED MUNICIPAL CHARTER:

(I) THE COUNTY COMMISSIONERS OR COUNTY COUNCIL PUBLICLY SHALL SO PROCLAIM; AND

(II) THE PROCLAMATION SHALL STATE THAT THE PROPOSED INCORPORATION IS NOT APPROVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 26 and, as it related to certifying the results of a referendum, 30(b).

In subsection (a) of this section, the former phrase "[i]t is the intent of this section" is deleted as surplusage.

In subsection (b)(2) and the introductory language of subsection (c) of this section, the references to the "county board of elections" are substituted for the former references to the "board of supervisors of elections [of the county], and its clerks, judges of election and subordinates" for brevity and consistency with the Election Law Article.

In subsection (b)(3) of this section, the former reference to "voting machines" is deleted as unnecessary in light of the reference to "ballots".

In subsection (c) of this section, the reference to after the "canvass is complete" is substituted for the former reference to after the "closing of the polls" for accuracy because time would need to be given to allow for the counting of absentee ballots.

Also in subsection (c) of this section, the former reference to "tally[ing] the results thereof" is deleted as unnecessary in light of the reference to the "canvass [being] complete".

In the introductory language of subsection (d)(1) of this section, the former reference to the question "so submitted to the voters of a particular area, proposing the incorporation thereof" is deleted as surplusage.

In subsection (d)(1)(ii) of this section, the former reference to the "residents thereof" is deleted as included in the reference to the "area proposed to be incorporated".

Also in subsection (d)(1)(ii) of this section, the former reference to the municipal charter "in all respects to be effective and observed as the charter of the municipal corporation" is deleted as surplusage.

In subsection (d)(2)(ii) of this section, the reference to the proposed incorporation being "not approved" is substituted for the former references to the proposed incorporation being "of no effect" and the "proposed charter [being] null and void and of no effect" for brevity.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

4–210. NOMINATION AND ELECTION OF MUNICIPAL OFFICERS.

(A) IN GENERAL.

AN ELECTION OF OFFICERS FOR A PROPOSED MUNICIPALITY SHALL BE CONDUCTED AT THE SAME TIME AND PLACE AS THE REFERENDUM ON THE QUESTION OF INCORPORATION AND IS SUBJECT TO THE SAME PROCEDURES AND PRACTICES.

(B) QUALIFICATIONS.

AN INDIVIDUAL MAY NOT BE INITIALLY NOMINATED OR ELECTED TO A MUNICIPAL OFFICE UNLESS THE INDIVIDUAL QUALIFIES UNDER THE REQUIREMENTS SPECIFIED FOR THAT OFFICE IN THE PROPOSED MUNICIPAL CHARTER.

(C) NOMINATION.

(1) A CANDIDATE FOR AN ELECTED OFFICE OF A PROPOSED MUNICIPALITY SHALL BE NOMINATED BY A CERTIFICATE OF NOMINATION FILED BY THE CANDIDATE WITH THE COUNTY BOARD OF ELECTIONS.

(2) THE CERTIFICATE OF NOMINATION SHALL INCLUDE:

(I) THE NAME AND RESIDENCE ADDRESS OF THE CANDIDATE; AND

(II) THE OFFICE THAT THE CANDIDATE SEEKS.

(D) PREPARATION OF BALLOTS.

AFTER CERTIFICATES OF NOMINATION BY CANDIDATES FOR MUNICIPAL OFFICE ARE FILED, THE COUNTY BOARD OF ELECTIONS SHALL PREPARE BALLOTS TO ALLOW THE REGISTERED VOTERS OF THE AREA PROPOSED TO BE INCORPORATED TO VOTE ON THE CANDIDATES WHO ARE NOMINATED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 30(e) and the first through third sentences of (a).

In subsection (a) of this section, the reference to a "proposed municipality" is substituted for the former reference to the "municipal corporation" for clarity.

Also in subsection (a) of this section, the former reference to an election being "arranged for" is deleted as implicit in the reference to an election being "conducted".

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

In subsection (b) of this section, the reference to an individual being "initially" nominated or elected is added for clarity.

In subsection (c)(1) of this section, the reference to "[a] candidate for an elected office of a proposed municipality" is substituted for the former reference to "[t]own officers" for accuracy because there are officers that are not elected.

Also in subsection (c)(1) of this section, the reference to the "county board of elections" is substituted for the former reference to the "county governing body" for consistency with § 4–209 of this subtitle, which requires the board of elections to conduct the referendum. Correspondingly, in subsection (d) of this section, the former reference to the "county governing body" is deleted.

In subsection (d) of this section, the phrase "[a]fter certificates of nomination by candidates for municipal office are filed" is substituted for the former word "[t]hereupon" for clarity.

Also in subsection (d) of this section, the reference to "the area proposed to be incorporated" is substituted for the former reference to "the particular area" for clarity.

Also in subsection (d) of this section, the former reference to "voting machines" is deleted as unnecessary in light of the reference to "ballots".

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

4–211. TALLY AND CERTIFICATION OF ELECTION RESULTS.

(A) VOTE AGAINST INCORPORATION NOT BAR.

CASTING A VOTE AGAINST THE PROPOSED INCORPORATION DOES NOT PREVENT THE VOTER FROM VOTING FOR A CANDIDATE FOR A MUNICIPAL OFFICE.

(B) TALLY AND CERTIFICATION.

THE COUNTY BOARD OF ELECTIONS SHALL:

(1) TALLY THE VOTES CAST FOR CANDIDATES TO A MUNICIPAL OFFICE; AND

(2) CERTIFY THE RESULTS TO THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

(C) NULLIFICATION OF CANDIDATE VOTES.

IF LESS THAN A MAJORITY OF THOSE WHO VOTED ON THE QUESTION VOTED IN FAVOR OF INCORPORATION UNDER THE PROPOSED MUNICIPAL CHARTER, THE VOTES CAST FOR CANDIDATES FOR A MUNICIPAL OFFICE ARE VOID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 30(b), as it related to the tallying and certifying of votes for candidates for municipal office, and the fourth sentence of (a).

In subsection (a) of this section, the reference to "voting for a candidate for a municipal office" is substituted for the former reference to "expressing his choices among the nominees for the several offices" for brevity and clarity.

In the introductory language of subsection (b) of this section, the reference to the "county board of elections" is substituted for the former reference to the "board of supervisors of elections, and its clerks, judges of election and subordinates" for brevity and consistency with the Election Law Article.

In subsection (c) of this section, the reference to the votes cast for "candidates for a municipal office" is substituted for the former reference to the votes cast for "election to the several offices" for clarity.

Also in subsection (c) of this section, the former references to the votes being "null" and "of no effect whatsoever" are deleted as included in the reference to the votes being "void".

4–212. PROCLAMATION OF ELECTED OFFICERS; APPOINTMENT PROCESS.

(A) PLURALITY NEEDED FOR ELECTION.

THE COUNTY COMMISSIONERS OR COUNTY COUNCIL PUBLICLY SHALL PROCLAIM THAT A CANDIDATE WHO RECEIVED A PLURALITY OF THE VOTES CAST FOR AN OFFICE HAS BEEN ELECTED TO THAT OFFICE.

(B) OFFICE EFFECTIVE WITH MUNICIPAL CHARTER.

A CANDIDATE PROCLAIMED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL TO HAVE BEEN ELECTED TO AN OFFICE SHALL BECOME AN OFFICER OF THE MUNICIPALITY WHEN THE MUNICIPAL CHARTER TAKES EFFECT.

(C) APPOINTMENT TO UNFILLED OFFICE.

(1) IF NO INDIVIDUAL IS NOMINATED FOR A MUNICIPAL OFFICE, A CANDIDATE ELECTED TO AN OFFICE IS UNABLE TO ASSUME THE OFFICE, OR FOR ANY OTHER REASON NO CANDIDATE IS ELECTED TO FILL AN OFFICE, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL APPOINT A RESIDENT OF THE MUNICIPALITY TO THE OFFICE.

(2) WHEN APPOINTED TO AN OFFICE AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, A RESIDENT SHALL HOLD THE OFFICE AS IF ELECTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 30(d) and the first and second sentence of (c).

In subsection (a) of this section, the reference to "a candidate" is substituted for the former reference to "any person" for accuracy.

Also in subsection (a) of this section, the former reference to a candidate being elected "whether or not he receives a majority of all the votes cast for that office" is deleted as surplusage.

In subsection (b) of this section, the reference to a "candidate proclaimed by the county commissioners or county council to have been elected to an office" is substituted for the former reference to the "persons so named by proclamation" for clarity.

In subsection (c)(1) of this section, the reference to a resident "of the municipality" is substituted for the former reference to a resident "of the particular area" for clarity.

In subsection (c)(2) of this section, the phrase "[w]hen appointed to an office as provided in paragraph (1) of this subsection" is substituted for the former phrase "upon assuming it" for clarity.

Also in subsection (c)(2) of this section, the phrase "as if elected" is substituted for the former phrase "in all respects as if regularly elected thereto as in this section provided" for brevity.

Also in subsection (c)(2) of this section, the former reference to holding office "in all respects" is deleted as surplusage.

The third sentence of former Art. 23A, § 30(c), which provided that an officer shall continue to hold the office until superseded by a newly elected officer as provided in the municipal charter, is deleted as unnecessary in light of the fact that it restates common law.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

4–213. COST OF REFERENDUM AND ELECTION OF OFFICERS.

(A) COUNTY COMMISSIONERS OR COUNTY COUNCIL TO PAY EXPENSES.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL PAY FOR:

(1) THE REFERENDUM;

(2) THE ORIGINAL ELECTION OF OFFICERS REQUIRED UNDER § 4–210 OF THIS SUBTITLE; AND

(3) THE REASONABLE COSTS OF THIRD PARTY CONSULTANTS HIRED BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL TO ANALYZE ISSUES RELATED TO THE PROPOSED INCORPORATION.

(B) REPAYMENT BY MUNICIPALITY.

IF THE REFERENDUM RESULTS IN INCORPORATION, THE MUNICIPALITY SHALL REPAY THE EXPENSES SPECIFIED IN SUBSECTION (A) OF THIS SECTION TO THE COUNTY WITHIN 1 YEAR AFTER THE INCORPORATION TAKES EFFECT.

(C) WITHHOLDING PAYMENT.

AFTER 1 YEAR FROM THE EFFECTIVE DATE OF THE INCORPORATION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL MAY WITHHOLD ANY PAYMENT DUE TO THE MUNICIPALITY TO SATISFY ANY UNPAID EXPENSE SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 27.

In the introductory language of subsection (a) of this section, the reference to "pay[ing] for" is substituted for the former reference to "defray[ing] the expenses of" for brevity.

In subsection (a)(2) of this section, the reference to an election of officers "required under § 4–210 of this subtitle" is added for clarity.

In subsection (b) of this section, the former reference to "the total amount of" the expenses is deleted as surplusage.

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

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

4–214. REGISTRATION OF MUNICIPAL CHARTER.

(A) CHARTER INFORMATION SENT TO DEPARTMENT OF LEGISLATIVE SERVICES.

WHEN THE PUBLIC PROCLAMATION UNDER § 4–209(D) OF THIS SUBTITLE IS MADE, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL SEND THE INFORMATION CONCERNING THE MUNICIPAL CHARTER TO THE DEPARTMENT OF LEGISLATIVE SERVICES, AS PROVIDED IN § 4–109 OF THIS TITLE.

(B) PRINTING AND INDEXING MUNICIPAL CHARTER.

THE MUNICIPAL CHARTER IS SUBJECT TO THE REQUIREMENTS OF §§ 4–310 AND 4–311 OF THIS TITLE, INCLUDING THE PRINTING AND INDEXING IN THE LAWS ENACTED BY THE GENERAL ASSEMBLY.

(C) CODIFICATION OF MUNICIPAL CHARTER.

THE EXACT TEXT OF THE MUNICIPAL CHARTER, INCLUDING ANY AMENDMENTS, SHALL BE INCLUDED IN ANY EDITION OR CODIFICATION OF THE MUNICIPAL CHARTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 28(a), (c), and (d).

In subsection (a) of this section, the reference to the proclamation "under § 4–209(d) of this subtitle" is substituted for the former reference to the proclamation "as to the vote on the question of incorporation under the proposed charter" for brevity.

Also in subsection (a) of this section, the former reference to sending information as provided "for municipal officials" is deleted as surplusage.

In subsection (c) of this section, the phrase "including any amendments," is substituted for the former phrase "as amended from time to time," for brevity.

Also in subsection (c) of this section, the former reference to a municipal charter "adopted under the provisions of this subtitle" is deleted as unnecessary because only this subtitle governs adoption of municipal charters.

Defined term: "Municipal charter" § 4–101

4–215. SCHEDULE FOR PHASING IN LOCAL INCOME TAX PAYMENTS.

IF A REFERENDUM HELD UNDER THIS SUBTITLE RESULTS IN THE CREATION OF A NEW MUNICIPALITY, THE LOCAL INCOME TAX PAYMENTS AUTHORIZED UNDER § 2–607 OF THE TAX – GENERAL ARTICLE SHALL BE

DISTRIBUTED TO THE MUNICIPALITY AS FOLLOWS, UNLESS THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AGREES TO AN ACCELERATED PAYMENT SCHEDULE:

(1) IN THE FIRST FULL FISCAL YEAR AFTER THE MUNICIPAL INCORPORATION TAKES EFFECT, ONE–THIRD OF THE DISTRIBUTION OTHERWISE REQUIRED UNDER § 2–607 OF THE TAX – GENERAL ARTICLE;

(2) IN THE SECOND FISCAL YEAR AFTER THE MUNICIPAL INCORPORATION TAKES EFFECT, TWO–THIRDS OF THE DISTRIBUTION OTHERWISE REQUIRED UNDER § 2–607 OF THE TAX – GENERAL ARTICLE; AND

(3) IN THE THIRD FISCAL YEAR AFTER THE MUNICIPAL INCORPORATION TAKES EFFECT AND EACH SUBSEQUENT FISCAL YEAR, ALL OF THE DISTRIBUTION REQUIRED UNDER § 2–607 OF THE TAX – GENERAL ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 29(a).

In the introductory language of this section, the reference to a referendum "held under this subtitle" is added for clarity.

In items (2) and (3) of this section, the former references to the "full" fiscal year are deleted as surplusage.

Defined term: "Municipality" § 1–101

4–216. COMPREHENSIVE LAND USE PLAN.

(A) COOPERATION IN DEVELOPING PLAN.

A NEW MUNICIPALITY THAT IS ELIGIBLE TO ASSUME PLANNING AND ZONING AUTHORITY AND THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL COOPERATE IN DEVELOPING THE FIRST COMPREHENSIVE LAND USE PLAN OF THE MUNICIPALITY.

(B) ZONING DESIGNATION COMPLIANCE.

UNLESS THE COUNTY COMMISSIONERS OR COUNTY COUNCIL EXPRESSLY APPROVES OTHERWISE, THE INITIAL ZONING DESIGNATIONS USED BY THE MUNICIPALITY SHALL COMPLY WITH §§ 4–104(E) AND 4–516 OF THIS TITLE, INCLUDING THE 5–YEAR ZONING CLASSIFICATION RESTRICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 29(b).

In subsection (a) of this section, the reference to a "new" municipality is added for clarity.

Defined term: "Municipality" § 1–101

SUBTITLE 3. AMENDMENT OR REPEAL OF CHARTER.

4–301. PROCEDURE TO AMEND CHARTER.

A MUNICIPALITY SHALL ACT IN ACCORDANCE WITH THIS SUBTITLE IN EXERCISING THE POWERS TO AMEND ITS MUNICIPAL CHARTER THAT ARE GRANTED UNDER ARTICLE XI–E OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 11.

The former reference to a municipality "applying" the powers to amend its municipal charter is deleted as included in the reference to "exercising" the powers.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

4–302. INITIATION OF CHARTER AMENDMENT — IN GENERAL.

AN AMENDMENT TO A MUNICIPAL CHARTER MAY BE INITIATED BY:

(1) THE LEGISLATIVE BODY OF THE MUNICIPALITY AS PROVIDED IN § 4–304 OF THIS SUBTITLE; OR

(2) A PETITION OF THE QUALIFIED VOTERS OF THE MUNICIPALITY AS PROVIDED IN § 4–305 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 12.

In items (1) and (2) of this section, the phrases "as provided in § 4–304 of this subtitle" and "as provided in § 4–305 of this subtitle", respectively, are added for clarity.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

"Qualified voter" § 4–101

4–303. FORM OF PROPOSED CHARTER AMENDMENT.

(A) IN GENERAL.

IN CONFORMITY WITH THE REQUIREMENT IMPOSED ON THE GENERAL ASSEMBLY UNDER ARTICLE III, § 29 OF THE MARYLAND CONSTITUTION:

(1) A RESOLUTION OR PETITION TO AMEND A MUNICIPAL CHARTER SHALL CONTAIN THE EXACT TEXT OF THE PROPOSED CHARTER AMENDMENT, PREPARED SO THAT EACH PROVISION IS SHOWN AS THE PROVISION WOULD READ WHEN AMENDED OR ENACTED;

(2) EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS SECTION, A PROVISION OF A MUNICIPAL CHARTER MAY NOT BE AMENDED BY REFERENCE TO ITS TITLE OR CITATION ONLY; AND

(3) A MUNICIPAL CHARTER AMENDMENT SHALL:

(I) EMBRACE ONE SUBJECT ONLY; AND

(II) DESCRIBE THE SUBJECT IN ITS TITLE.

(B) SOURCE LAW.

A PROPOSED AMENDMENT SHALL IDENTIFY THE PROVISION TO BE AMENDED BY CITING THE CODE OR OTHER PUBLICATION OR AMENDMENT IN WHICH THE MOST RECENT TEXT OF THE PROVISION APPEARS.

(C) NUMBERING.

PROPOSED AMENDMENTS SHALL BE IN A CONSECUTIVELY NUMBERED SERIES.

(D) INCONSISTENT PROVISIONS.

A PROPOSED AMENDMENT SHALL PROVIDE SPECIFICALLY FOR THE REPEAL OF A PROVISION OF THE MUNICIPAL CHARTER THAT IS INCONSISTENT WITH THE AMENDED PROVISION.

(E) FORMAT.

(1) IN A PROPOSAL TO AMEND A MUNICIPAL CHARTER:

(I) EACH ADDITION SHALL BE UNDERSCORED, ITALICIZED, OR SHOWN IN CAPITAL LETTERS;

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH PROVISION TO BE REPEALED SHALL BE ENCLOSED IN DOUBLE PARENTHESES OR BOLDFACE BRACKETS; AND

(III) EACH NEW SECTION SHALL BE UNDERSCORED, ITALICIZED, OR SHOWN IN CAPITAL LETTERS OR CONTAIN SOME MARGINAL OR OTHER NOTATION TO THAT EFFECT.

(2) EACH ENTIRE SECTION TO BE REPEALED NEED NOT BE WRITTEN OUT IN FULL AND ENCLOSED IN DOUBLE PARENTHESES OR BOLDFACE BRACKETS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 13(b) and (c), the second sentence of 14(a), and 17(a) through (d).

In this section and throughout this subtitle, the references to a "municipal" charter are added for clarity.

In this section, the references to a "provision" are substituted for the former references to "section or sections" for brevity.

Also in this section, the former references to an "existing" charter or section are deleted as surplusage.

In subsection (a)(1) of this section and throughout this subtitle, the former references to "amendments" are deleted in light of the references to "amendment" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a)(1) of this section, the reference to the "exact text" of the amendment is substituted for the former reference to the "complete and exact wording" for brevity.

In subsection (a)(2) of this section, the phrase "except as provided in subsection (e)(2) of this section" is added for clarity.

Also in subsection (a)(2) of this section, the reference to a "provision of a municipal charter" is substituted for the former references to a "charter" and a "section of a charter" for brevity.

Also in subsection (a)(2) of this section, the former reference to a charter being "revised" is deleted as included in the reference to being "amended".

In subsections (b) and (d) of this section, the references to a "proposed amendment" are substituted for the former references to the "resolution to amend a charter" for brevity.

In subsection (b) of this section, the former reference to "the source of" the section to be amended is deleted as implicit in the designation of a section. Similarly, the former reference to the section "to be amended" is deleted.

In subsection (c) of this section, the reference to "[p]roposed" amendments is added to conform to the terminology used throughout this section.

In subsection (d) of this section, the former reference to a charter providing for repeal "not simply by implication" is deleted as implicit in the requirement that the repeal be specifically provided for.

In subsection (e) of this section, the reference to sections being "shown" are substituted for the former references to sections being "typed or printed completely" for brevity.

In subsection (e)(1)(i) of this section, the reference to an "addition" is substituted for the former reference to "new matter, if any, to be added" for brevity.

In subsection (e)(1)(ii) of this section, the reference to each "provision to be repealed" is substituted for the former reference to "all matter to be eliminated from the existing charter, if any" for brevity.

Also in subsection (e)(1)(ii) of this section, the former reference to matter to be repealed from a charter being indicated "in its proper place" is deleted as surplusage.

In subsection (e)(1)(iii) of this section, the former phrase "[w]here the subject matter consists of an entirely new section or sections" is deleted as surplusage.

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

In subsection (e)(2) of this section, the former phrase "[w]hen the purpose of any proposal is to repeal in entirety any section or sections of the existing charter" is deleted as surplusage.

Defined term: "Municipal charter" § 4–101

4–304. INITIATION OF CHARTER AMENDMENT BY LEGISLATIVE BODY.

(A) RESOLUTION REQUIRED.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY INITIATE A PROPOSED AMENDMENT TO THE MUNICIPAL CHARTER BY A RESOLUTION THAT, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, IS ADOPTED IN THE SAME MANNER AS OTHER RESOLUTIONS IN THE MUNICIPALITY BY A MAJORITY OF ALL THE INDIVIDUALS ELECTED TO THE LEGISLATIVE BODY.

(B) NOTICE REQUIRED.

THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY SHALL GIVE NOTICE OF THE RESOLUTION THAT PROPOSES AN AMENDMENT TO THE MUNICIPAL CHARTER BY:

(1) POSTING AN EXACT COPY OF THE RESOLUTION AT THE MAIN MUNICIPAL BUILDING OR OTHER PUBLIC PLACE FOR THE 40 DAYS AFTER THE RESOLUTION IS ADOPTED; AND

(2) PUBLISHING A FAIR SUMMARY OF THE PROPOSED AMENDMENT IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY:

(I) AT LEAST FOUR TIMES;

(II) AT WEEKLY INTERVALS; AND

(III) WITHIN THE 40 DAYS AFTER THE RESOLUTION IS ADOPTED.

(C) EFFECTIVE DATE OF CHARTER AMENDMENT.

UNLESS A PETITION MEETING THE REQUIREMENTS OF SUBSECTION (D) OF THIS SECTION IS PRESENTED TO THE LEGISLATIVE BODY OF A MUNICIPALITY ON OR BEFORE THE 40TH DAY AFTER THE LEGISLATIVE BODY ADOPTS A CHARTER AMENDMENT RESOLUTION, THE AMENDMENT SHALL TAKE EFFECT AS A PART OF THE MUNICIPAL CHARTER ON THE 50TH DAY AFTER THE RESOLUTION IS ADOPTED.

(D) REFERENDUM ON CHARTER AMENDMENT.

(1) A PETITION FOR A REFERENDUM ON A PROPOSED CHARTER AMENDMENT SHALL:

(I) BE SIGNED BY AT LEAST 20% OF THE QUALIFIED VOTERS FOR THE MUNICIPAL GENERAL ELECTION; AND

(II) REQUEST THAT THE PROPOSED AMENDMENT BE SUBMITTED TO REFERENDUM OF THE QUALIFIED VOTERS OF THE MUNICIPALITY.

(2) EACH INDIVIDUAL SIGNING THE PETITION SHALL INDICATE ON THE PETITION THE INDIVIDUAL'S NAME AND RESIDENCE ADDRESS.

(3) THE PETITION SHALL BE DELIVERED TO THE LEGISLATIVE BODY OF THE MUNICIPALITY BY:

(I) PRESENTMENT; OR

(II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(4) (I) ON RECEIVING THE PETITION, THE LEGISLATIVE BODY SHALL VERIFY THAT EACH INDIVIDUAL WHO SIGNED THE PETITION IS A QUALIFIED VOTER FOR THE MUNICIPAL GENERAL ELECTION.

(II) THE PETITION HAS NO EFFECT IF IT IS SIGNED BY LESS THAN 20% OF THE QUALIFIED VOTERS FOR THE MUNICIPAL GENERAL ELECTION.

(5) IF THE PETITION COMPLIES WITH THIS SECTION, THE LEGISLATIVE BODY SHALL SPECIFY BY RESOLUTION ADOPTED IN ACCORDANCE WITH ITS NORMAL LEGISLATIVE PROCEDURE:

(I) THE DAY AND HOURS FOR THE REFERENDUM; AND

(II) THE EXACT TEXT THAT IS TO BE PLACED ON THE BALLOT.

(6) (I) THE LEGISLATIVE BODY MAY SCHEDULE THE REFERENDUM FOR THE NEXT REGULAR MUNICIPAL GENERAL ELECTION OR AT A SPECIAL ELECTION.

(II) IF THE LEGISLATIVE BODY SCHEDULES A SPECIAL ELECTION, IT SHALL BE HELD NOT LESS THAN 40 DAYS OR MORE THAN 60 DAYS AFTER THE RESOLUTION SCHEDULING THE REFERENDUM IS ADOPTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 13(a) and (d) through (h) and the fourth sentence of 16(a).

In subsections (a) and (b) of this section, the former references to the legislative body and chief executive officer of a municipality "by whatever name known" are deleted as surplusage.

In subsections (a) and (c) of this section, the former references to a resolution "ordained" are deleted as unnecessary in light of the references to a resolution "adopt[ed]".

In the introductory language of subsection (b) of this section and throughout this subtitle, the former references to the "mayor" of the municipality are deleted as included in the references to the "chief executive officer" of the municipality.

In subsection (b) of this section, the references to "the" 40 days after the resolution is adopted are substituted for the former references to "at least" 40 days "starting immediately after" the resolution is adopted and "at least" 40 days "following" adoption for brevity and to clarify that it must be the 40 days immediately after adoption.

In subsection (b)(1) of this section, the former reference to the "town hall" is deleted as included in the reference to the "main municipal building".

Also in subsection (b)(1) of this section, the former reference to a "complete" copy of the resolution is deleted as included in the reference to an "exact" copy.

In subsection (c) of this section, the reference to the amendment "tak[ing] effect" as a part of the municipal charter is substituted for the former reference to the amendment "becom[ing] and be[ing] considered" as a part of the municipal charter for brevity.

Also in subsection (c) of this section, the former phrase "in all respects to be effective and observed as such" is deleted as surplusage.

Also in subsection (c) of this section, the former reference to the amendment becoming effective "according to the terms of the amendment" is deleted as implicit in an amendment taking effect.

In the introductory language of subsection (d)(1) of this section, the reference to a petition "for a referendum on a proposed charter amendment" is added for clarity.

In subsection (d)(1)(i) of this section, the former reference to the municipal general election "of the particular municipal corporation" is deleted as surplusage.

In subsection (d)(2) and (4)(i) of this section, the references to an "individual" are substituted for the former references to a "person" because only a human being and not the other entities included in the defined term "person" can sign a petition.

In subsection (d)(3)(ii) of this section, the former reference to the petition being delivered "bearing a postmark from the United States Postal Service" is deleted as implicit in the requirement that it be delivered through certified mail.

In subsection (d)(5)(i) of this section, the reference to the "referendum" is substituted for the former reference to the "election at which the question shall be submitted to the voters of the municipal corporation" for brevity.

In subsection (d)(5)(ii) of this section, the former references to "voting machines" are deleted as included in the reference to a "ballot".

Also in subsection (d)(5)(ii) of this section, the former phrase "when the question is submitted to the voters of the municipal corporation" is deleted as surplusage.

In subsection (d)(6)(ii) of this section, the references to the legislative body "schedul[ing]" a special election and a referendum are substituted for the former references to the legislative body "designat[ing]" a special election and "providing for" a referendum for clarity.

Also in subsection (d)(6)(ii) of this section, the reference to the resolution being "adopted" is substituted for the former reference to the resolution's "final passage" for clarity and consistency within this section.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference in subsection (a) of this section to a resolution being adopted "by a majority of all the individuals elected to the legislative body" is ambiguous because it is unclear whether it requires vacant positions to be included in the total count for determining a majority.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

"Qualified voter" § 4–101

4–305. INITIATION OF CHARTER AMENDMENT BY PETITION OF VOTERS.

(A) PETITION.

(1) BY A PETITION PRESENTED TO THE LEGISLATIVE BODY OF A MUNICIPALITY, AT LEAST 20% OF THE QUALIFIED VOTERS FOR THE MUNICIPAL GENERAL ELECTION MAY INITIATE A PROPOSED AMENDMENT TO THE MUNICIPAL CHARTER.

(2) EACH INDIVIDUAL SIGNING THE PETITION SHALL INDICATE ON THE PETITION THE INDIVIDUAL'S NAME AND RESIDENCE ADDRESS.

(B) VERIFICATION OF SIGNATURES ON PETITION.

(1) ON RECEIVING THE PETITION, THE LEGISLATIVE BODY SHALL VERIFY THAT EACH INDIVIDUAL WHO SIGNED THE PETITION IS A QUALIFIED VOTER FOR THE MUNICIPAL GENERAL ELECTION.

(2) THE PETITION HAS NO EFFECT IF IT IS SIGNED BY LESS THAN 20% OF THE QUALIFIED VOTERS FOR THE MUNICIPAL GENERAL ELECTION.

(C) ADOPTION BY LEGISLATIVE BODY OF CHARTER AMENDMENT PROPOSED BY PETITION.

IF THE LEGISLATIVE BODY APPROVES OF THE AMENDMENT IN THE PETITION PRESENTED UNDER SUBSECTION (A) OF THIS SECTION, THE LEGISLATIVE BODY MAY ADOPT THE PROPOSED AMENDMENT BY RESOLUTION AND PROCEED IN THE SAME MANNER AS IF THE AMENDMENT HAD BEEN INITIATED BY THE LEGISLATIVE BODY AND IN COMPLIANCE WITH §§ 4–303(A) AND 4–304 OF THIS SUBTITLE.

(D) RESOLUTION FOR REFERENDUM.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF THE PETITION COMPLIES WITH THIS SECTION, THE LEGISLATIVE BODY, NO LATER THAN 60 DAYS AFTER THE PETITION IS PRESENTED TO THE LEGISLATIVE BODY, SHALL SPECIFY BY RESOLUTION ADOPTED IN ACCORDANCE WITH ITS NORMAL LEGISLATIVE PROCEDURE:

(1) THE DAY AND HOURS FOR THE REFERENDUM; AND

(2) THE EXACT TEXT THAT IS TO BE PLACED ON THE BALLOT.

(E) DATE OF REFERENDUM.

(1) THE LEGISLATIVE BODY MAY SCHEDULE THE REFERENDUM FOR THE NEXT REGULAR MUNICIPAL GENERAL ELECTION OR AT A SPECIAL ELECTION.

(2) IF THE LEGISLATIVE BODY SCHEDULES A SPECIAL ELECTION, IT SHALL BE HELD NOT LESS THAN 40 DAYS OR MORE THAN 60 DAYS AFTER THE RESOLUTION SCHEDULING THE REFERENDUM IS ADOPTED.

(F) NOTICE OF PROPOSED CHARTER AMENDMENT REQUIRED.

THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY SHALL GIVE NOTICE OF A SUBMISSION OF A PROPOSED CHARTER AMENDMENT BY:

(1) (I) POSTING AN EXACT COPY OF THE PROPOSED AMENDMENT AT THE MAIN MUNICIPAL BUILDING OR OTHER PUBLIC PLACE FOR AT LEAST 4 WEEKS IMMEDIATELY PRECEDING THE REFERENDUM AT WHICH THE QUESTION IS TO BE SUBMITTED; AND

(II) ON THE DAY OF THE REFERENDUM, POSTING A SIMILAR COPY AT THE PLACE FOR VOTING; AND

(2) PUBLISHING NOTICE OF THE REFERENDUM AND A FAIR SUMMARY OF THE PROPOSED AMENDMENT IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY AT LEAST ONCE IN EACH OF THE 4 WEEKS IMMEDIATELY PRECEDING THE REFERENDUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 14, 15, and the fourth sentence of 16(a).

In subsections (a)(1) and (f) of this section, the former references to the legislative body and chief executive officer of a municipality "by whatever name known" are deleted as surplusage.

In subsection (a)(1) of this section, the former reference to the municipal general election "in the particular municipal corporation" is deleted as surplusage.

In subsection (a)(2) and (b)(1) of this section, the references to an "individual" are substituted for the former references to a "person"

because only a human being and not the other entities included in the defined term "person" can sign a petition.

In the introductory language of subsection (d) of this section, the phrase "[e]xcept as provided in subsection (c) of this section" is added to clarify that this requirement does not comply if the legislative body approves of the charter amendment without a referendum.

In subsection (d)(1) of this section, the reference to the "referendum" is substituted for the former reference to the "election at which the question shall be submitted to the voters of the municipal corporation" for brevity.

In subsection (d)(2) of this section, the former references to "voting machines" are deleted as included in the reference to a "ballot".

Also in subsection (d)(2) of this section, the former phrase "when the question is submitted to the voters of the municipal corporation" is deleted as surplusage.

In subsection (e)(2) of this section, the reference to the "resolution scheduling the referendum is adopted" is substituted for the former reference to the "final passage of the resolution" for clarity.

In the introductory language of subsection (f) of this section, the former reference to giving notice "to the voters thereof" is deleted as surplusage.

In subsection (f)(1)(i) of this section, the former reference to the "town hall" is deleted as included in the reference to the "main municipal building".

Also in subsection (f)(1)(i) of this section, the former reference to an exact copy "of the wording" of the proposed amendment is deleted as surplusage.

Also in subsection (f)(1)(i) of this section, the former reference to the "complete" copy of the proposed amendment is deleted as included in the reference to the "exact" copy of the amendment.

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

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101
"Qualified voter" § 4–101

4–306. RESCISSION OF PROPOSED CHARTER AMENDMENT PROHIBITED.

AFTER A RESOLUTION IS ADOPTED BY THE LEGISLATIVE BODY OR AFTER ITS SUBMISSION IN A PETITION, A PROPOSAL TO AMEND A MUNICIPAL CHARTER MAY NOT BE RESCINDED IN ANY MANNER EXCEPT BY ANOTHER CHARTER AMENDMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 17(e).

The former reference to amending a municipal charter "whether initiated by the legislative body of the municipal corporation or by a petition of qualified voters of the municipal corporation" is deleted as unnecessary in light of the fact that, as provided in § 4–302 of this subtitle, these are the only two methods of initiating an amendment to a charter.

The former reference to the "formal" submission of a petition proposing an amendment of a charter is deleted as surplusage.

Defined term: "Municipal charter" § 4–101

4–307. REFERENDUM ON CHARTER AMENDMENT.

(A) IN GENERAL.

ON THE DAY AND DURING THE HOURS SPECIFIED IN THE RESOLUTION FOR A REFERENDUM, THE CHARTER AMENDMENT SHALL BE SUBMITTED TO THE QUALIFIED VOTERS.

(B) CONDUCT OF REFERENDUM.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE REFERENDUM SHALL BE CONDUCTED GENERALLY ACCORDING TO THE PROCEDURES FOR REGULAR MUNICIPAL ELECTIONS.

(2) THE OFFICIAL WHO CONDUCTS THE REGULAR MUNICIPAL ELECTION SHALL PERFORM THE SAME DUTIES FOR THE REFERENDUM.

(C) COST OF REFERENDUM.

THE MUNICIPALITY SHALL PAY FOR THE REFERENDUM.

(D) TALLY AND CERTIFICATION OF RESULTS.

PROMPTLY AFTER THE CANVAS IS COMPLETE, THE OFFICIAL WHO CONDUCTS THE REFERENDUM SHALL CERTIFY THE RESULTS TO THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY.

(E) PROCLAMATION OF RESULTS.

WITHIN 10 DAYS AFTER RECEIVING THE CERTIFICATION:

(1) IF A MAJORITY OF THOSE WHO VOTED ON THE QUESTION VOTED FOR THE PROPOSED CHARTER AMENDMENT:

(I) THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY PUBLICLY SHALL SO PROCLAIM; AND

(II) ON THE 30TH DAY AFTER THE PUBLIC PROCLAMATION, THE CHARTER AMENDMENT SHALL BECOME PART OF THE MUNICIPAL CHARTER; OR

(2) IF LESS THAN A MAJORITY OF THOSE WHO VOTED ON THE QUESTION VOTED FOR THE PROPOSED CHARTER AMENDMENT:

(I) THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY PUBLICLY SHALL SO PROCLAIM; AND

(II) THE PROCLAMATION SHALL STATE THAT THE CHARTER AMENDMENT IS NOT APPROVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 16(b), (c), and the first, second, third, and fifth sentences of (a).

In subsection (a) of this section, the reference to the day and hours specified "in the resolution" is added for clarity.

In subsection (b)(1) of this section, the former phrase "[i]t is the intent of this section" is deleted as surplusage.

Also in subsection (b)(1) of this section, the former reference to "practices" is deleted as included in the reference to "procedures".

Also in subsection (b)(1) of this section, the former reference to procedures "specifically or necessarily" modified by this subtitle is deleted as surplusage.

In subsection (b)(2) and the introductory language of subsection (d) of this section, the former references to "officials" are deleted in light of the references to an "official" and Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (b)(2) and the introductory language of subsection (d) of this section, the former references to "arrang[ing] for" elections are deleted as included in the references to "conduct[ing]" elections.

Also in subsection (b)(2) and the introductory language of subsection (d) of this section, the former references to the official whose "duty" it is to conduct the election is deleted as implicit in the reference to the official "who conducts" the election.

In subsection (b)(2) of this section, the former reference to performing the duties "so far as relevant" to the referendum is deleted as unnecessary because the relevant duties would be the only duties required of the official.

In subsection (c) of this section, the reference to "pay[ing] for" the referendum is substituted for the former reference to "[t]he expenses … be[ing] defrayed" for brevity.

In subsection (d) of this section, the reference to after the "canvas is complete" is substituted for the former reference to after the "closing of the polls" for accuracy because time would need to be given for the counting of absentee ballots.

Also in subsection (d) of this section, the former reference to "tally[ing] the results thereof" is deleted as unnecessary in light of the reference to the "canvas [being] complete".

In the introductory language of subsection (e) of this section, the former reference to the certification "of the votes from the officials conducting the referendum" is deleted as unnecessary because the only certification being referred to in this section is the certification of the vote.

In subsection (e)(1)(ii) of this section, the former reference to the amendment becoming a part of the municipal charter "according to its terms, in all respects to be effective and observed as such" is deleted as surplusage.

In subsection (e)(2)(ii) of this section, the reference to the amendment being "not approved" is substituted for the former reference to the amendment being "null and void and of no effect whatsoever" for brevity.

Also in subsection (e)(2)(ii) of this section, the former reference to the proposed charter amendment "contained in said question" is deleted as surplusage.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101
"Qualified voter" § 4–101

4–308. REGISTRATION OF ADOPTED CHARTER AMENDMENT.

WHEN A CHARTER AMENDMENT BECOMES EFFECTIVE, THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY SHALL SEND THE INFORMATION CONCERNING THE CHARTER AMENDMENT TO THE DEPARTMENT OF LEGISLATIVE SERVICES AS PROVIDED IN § 4–109 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 17(f).

The former reference to the amendment becoming effective "by reason of having been ordained or passed by the legislative body of the municipal corporation, or at the time of making public proclamation as to the vote on any question containing a proposed charter amendment or amendments which have been adopted" is deleted as unnecessary because it encompasses the only means by which an amendment can become effective.

Defined term: "Municipality" § 1–101

4–309. CODIFICATION OF ADOPTED CHARTER AMENDMENT.

THE EXACT TEXT OF AN AMENDMENT TO A MUNICIPAL CHARTER THEN EFFECTIVE SHALL BE INCLUDED IN ANY LATER EDITION OR CODIFICATION OF THE CHARTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 18.

The reference to an amendment to a municipal charter "then effective" is added for clarity.

The former reference to an amendment "adopted as in this subheading specified" is deleted as unnecessary because all amendments are required to be adopted under this subtitle.

The former reference to the text of an amendment being included in a codification of the charter "until altered, modified or repealed by a

subsequent amendment or amendments to the charter" is deleted as implicit because an alteration would necessarily be by amendment which would be required under this section to be included and the original amendment would no longer exist with the same wording.

Defined term: "Municipal charter" § 4–101

4–310. ANNUAL DUTIES REGARDING CHARTER AMENDMENTS — MUNICIPALITY.

(A) COMPILATION OF CHARTER AMENDMENTS.

(1) AT THE END OF EACH CALENDAR OR FISCAL YEAR, EACH MUNICIPALITY SHALL COMPILE A COMPLETE SET OF CHARTER ENACTMENTS OF THE MUNICIPALITY FOR THAT YEAR.

(2) THE CHARTER ENACTMENTS IN THE COMPILATION SHALL BE IN A NUMERICAL SEQUENCE, BEGINNING WITH NO. 1, AND IN A SEPARATE SERIES FOR EACH YEAR.

(B) PUBLIC INSPECTION OF COPIES OF COMPILATION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, COPIES OF THE COMPILATION SHALL BE:

(I) KEPT ON PERMANENT RECORD AT THE OFFICES OF THE CHIEF EXECUTIVE OFFICER AND LEGISLATIVE BODY OF THE MUNICIPALITY;

(II) MADE AVAILABLE AT THOSE OFFICES FOR INSPECTION DURING REGULAR BUSINESS HOURS; AND

(III) PROVIDED BY THOSE OFFICES WITHOUT CHARGE.

(2) THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED MAY MAKE OTHER COPIES OF THE COMPILATION AVAILABLE AT A REASONABLE COST TO ANY PERSON.

(C) PROVIDING COPIES OF COMPILATION TO DEPARTMENT OF LEGISLATIVE SERVICES.

ON OR BEFORE MARCH 1 OF EACH YEAR, THE MUNICIPALITY SHALL PROVIDE WITHOUT CHARGE COPIES OF THE COMPILATION TO THE DEPARTMENT OF LEGISLATIVE SERVICES AS PROVIDED IN § 4–109 OF THIS TITLE.

(D) STATEMENT REGARDING REFERENDUM ON PROPOSED CHARTER AMENDMENTS.

ALONG WITH THE COMPILATION PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, THE MUNICIPALITY SHALL PROVIDE TO THE DEPARTMENT OF LEGISLATIVE SERVICES, AS PROVIDED IN § 4–109 OF THIS TITLE, A STATEMENT THAT INCLUDES INFORMATION ON ANY REFERENDUM ON A PROPOSED CHARTER AMENDMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 17A(a) through (d).

In subsection (a)(1) of this section, the reference to "charter enactments" is substituted for the former reference to "measures … which enact, amend, or repeal sections in its municipal charter" for brevity.

Also in subsection (a)(1) of this section, the former reference to the compilation being "convenient and legible" is deleted as implicit in the municipality's obligation to provide the documents in compilation form.

In subsection (b)(1)(i) of this section, the reference to the "chief executive officer and legislative body of the municipality" is substituted for the former reference to the "mayor and town council" for consistency with the terminology used throughout this subtitle.

Also in subsection (b)(1)(i) of this section, the former reference to the office of the chief executive officer and legislative body "by whatever name known" is deleted as surplusage.

In subsection (b)(2) of this section, the reference to the county "in which the municipality is located" is added for clarity.

Also in subsection (b)(2) of this section, the reference to copies "of the compilation" is added for clarity.

In subsection (c) of this section, the reference to "each" year is substituted for the former reference to "the next succeeding" year for clarity.

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

4–311. ANNUAL DUTIES REGARDING CHARTER AMENDMENTS — DEPARTMENT OF LEGISLATIVE SERVICES.

(A) INQUIRY TO MUNICIPALITIES.

(1) AT THE END OF EACH CALENDAR YEAR, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL ASK EACH MUNICIPALITY WHETHER ANY CHARTER ENACTMENTS HAVE BEEN ADOPTED DURING THAT CALENDAR YEAR OR THE LAST FISCAL YEAR.

(2) THE MUNICIPALITY PROMPTLY SHALL:

(I) ANSWER THE INQUIRY; AND

(II) VERIFY, BY A SIGNED AND NOTARIZED STATEMENT, THAT COPIES OF THE CHARTER ENACTMENTS ALREADY HAVE BEEN SENT TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

(B) NONCOMPLIANCE BY MUNICIPALITIES.

(1) THE DEPARTMENT OF LEGISLATIVE SERVICES PROMPTLY SHALL CERTIFY TO THE STATE COMPTROLLER IF A MUNICIPALITY DOES NOT COMPLY WITH SUBSECTION (A) OF THIS SECTION OR § 4–310(C) OR (D) OF THIS SUBTITLE.

(2) IF THE DEPARTMENT OF LEGISLATIVE SERVICES CERTIFIES NONCOMPLIANCE, THE COMPTROLLER MAY DISCONTINUE ALL FUNDS, GRANTS, OR STATE AID THAT THE MUNICIPALITY IS ENTITLED TO UNDER STATE LAW RELATING TO:

(I) THE INCOME TAX;

(II) THE TAX ON RACING;

(III) THE RECORDATION TAX;

(IV) THE ADMISSIONS AND AMUSEMENT TAX; AND

(V) LICENSE TAXES OR FEES.

(C) PRINTING AND INDEXING OF MUNICIPAL COMPILATIONS AND STATEMENTS.

THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

(1) ARRANGE IN A LOGICAL AND CONVENIENT ORDER THE TITLES OF THE LAWS OF THE MUNICIPALITIES THAT AMEND THE MUNICIPAL CHARTERS;

(2) PRINT EACH TITLE, IDENTIFIED AS A TITLE OF THE LAWS OF THE MUNICIPALITY, IN THE SESSION LAWS OF THE GENERAL ASSEMBLY FOR ITS REGULAR SESSION IN THAT YEAR; AND

(3) INDEX EACH TITLE WITH OR IN A SUPPLEMENTAL VOLUME TO THE LAWS ENACTED BY THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 17A(e) through (g).

In subsection (a)(1) of this section, the reference to "charter enactments … adopted" is substituted for the former reference to "enacted, amended or repealed any portion of its municipal charter" for brevity. Correspondingly, in subsection (a)(2)(ii) of this section, the reference to "charter enactments" is substituted for the former reference to "such enactments, amendments, or repeals".

In subsection (b)(1) of this section, the reference to a municipality that "does not comply with subsection (a) of this section or § 4–310(c) or (d) of this subtitle" is substituted for the former reference to a municipality that "fails or refuses to supply copies of this compilation and of the results of any referenda thereon to the Department of Legislative Services by March 1 of the next succeeding year, or fails or refuses to certify that there have been no such enactments, amendments, or repeals, or referenda, during the last calendar or fiscal year" for brevity.

In subsection (b)(2)(v) of this section, the reference to the license taxes "or fees" is added for accuracy. When Art. 23A, § 17A(f) was enacted in 1967, licenses were governed by Article 56 of the Code. At that time there were several instances in Article 56 where the language suggested that certain license fees were viewed as a tax. Additionally, there is case law dating back to the late 1800s that supports the assertion that certain license fees are viewed as a tax. *See, e.g. State Ins. Comm'r v. Nationwide Mutual Ins. Co.*, 241 Md. 108, 117 (1966); *Ruggles v. State*, 120 Md. 553, 563 (1913); and *Carson v. State* 57 Md. 251, 255 (1881).

In subsection (c) of this section, the former reference to the Department of Legislative Services "receiv[ing] the several compilations and statements thus delivered to it" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to the titles of the laws being "delivered to the State printer" for inclusion in the Session

Laws is deleted as obsolete because the Department of Legislative Services prints the Session Laws of the General Assembly.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101
"State" § 1–101

4–312. COMPILATION OF MUNICIPAL CHARTERS BY DEPARTMENT OF LEGISLATIVE SERVICES.

(A) REQUIRED.

THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL COMPILE THE CHARTERS OF ALL MUNICIPALITIES INTO A SINGLE PUBLICATION.

(B) REGULAR UPDATING REQUIRED.

THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL UPDATE THE COMPILATION OF MUNICIPAL CHARTERS ON A REGULAR BASIS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 17B.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

4–313. REPEAL OF CHARTER — BY CHARTER AMENDMENT.

(A) REPEAL ACCOMPLISHED BY CHARTER AMENDMENT PROCESS.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE REPEAL OF AN ENTIRE MUNICIPAL CHARTER, AND THE TERMINATION OF THE MUNICIPALITY, MAY BE ACCOMPLISHED BY A CHARTER AMENDMENT ADOPTED UNDER THIS SUBTITLE.

(B) CONTENTS OF REPEAL DOCUMENTS.

THE FOLLOWING NEED NOT CONTAIN THE TEXT OF THE MUNICIPAL CHARTER THAT IS PROPOSED FOR REPEAL AND MAY SIMPLY STATE THAT THE CHARTER IS PROPOSED FOR REPEAL:

(1) THE RESOLUTION OF THE LEGISLATIVE BODY OF THE MUNICIPALITY, OR THE PETITION OF THE QUALIFIED VOTERS, PROPOSING THE REPEAL OF THE MUNICIPAL CHARTER;

(2) THE POSTING AND PUBLICATION OF THE PROPOSED REPEAL OF THE MUNICIPAL CHARTER; AND

(3) THE SUBMISSION OF THE RESOLUTION PROPOSING THE REPEAL OF THE MUNICIPAL CHARTER AND THE FAVORABLE VOTE ON THE RESOLUTION TO THE DEPARTMENT OF LEGISLATIVE SERVICES AS PROVIDED IN § 4–109 OF THIS TITLE.

(C) EFFECT OF REPEAL.

AFTER A MUNICIPAL CHARTER IS REPEALED, THE CHARTER MAY NOT BE INCLUDED IN ANY LATER EDITION OR CODIFICATION OF THE PUBLIC LOCAL LAWS OF THE COUNTY OR STATE.

(D) DISPOSITION OF ASSETS AND LIQUIDATION OF INDEBTEDNESS IN RESOLUTION.

THE RESOLUTION OR PETITION TO INITIATE THE REPEAL OF A MUNICIPAL CHARTER MAY PROVIDE FOR THE DISPOSITION OF THE ASSETS OF THE MUNICIPALITY AND THE LIQUIDATION OF ANY DEBT OF THE MUNICIPALITY.

(E) ACTION IF NO DISPOSITION IS MADE IN RESOLUTION OR PETITION.

IF NO DISPOSITION IS MADE IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED SHALL:

(1) SUCCEED TO FULL OWNERSHIP, TITLE, AND CONTROL OF THE ASSETS OF THE MUNICIPALITY AFTER THE MUNICIPAL CHARTER IS REPEALED; AND

(2) PAY THE DEBTS AND OBLIGATIONS OF THE MUNICIPALITY IN ACCORDANCE WITH THE TERMS OF THE DEBTS AND OBLIGATIONS.

(F) TAKEOVER BY THE COUNTY COMMISSIONERS OR COUNTY COUNCIL.

WHILE A MUNICIPAL CHARTER REMAINS IN EFFECT, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED MAY PROVIDE, BY WRITTEN AGREEMENT WITH THE MUNICIPALITY, WHEN THE REPEAL OF THE CHARTER TAKES EFFECT, FOR:

(1) THE TRANSFER OF SOME OR ALL OF THE ASSETS OF THE MUNICIPALITY; AND

(2) THE ASSUMPTION OF SOME OR ALL OF THE DEBTS AND OBLIGATIONS OF THE MUNICIPALITY.

(G) ESTABLISHMENT OF SPECIAL TAX AREA.

(1) TO PROVIDE THE REVENUE NECESSARY TO PAY THE DEBTS AND OBLIGATIONS OF A MUNICIPALITY AS OF THE TIME THE MUNICIPAL CHARTER IS REPEALED, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED SHALL:

(I) ESTABLISH A SPECIAL TAX AREA WITH THE SAME BOUNDARIES AS THE FORMER MUNICIPALITY; AND

(II) IMPOSE A SPECIAL TAX OR SPECIAL ASSESSMENT IN THE SPECIAL TAX AREA AND COLLECT THE SPECIAL TAX OR SPECIAL ASSESSMENT IN THE SAME MANNER AS OTHER COUNTY PROPERTY TAXES ARE COLLECTED.

(2) THE PROCEEDS OF THE TAX OR ASSESSMENT SHALL BE APPLIED ONLY TO THE DEBT AND OBLIGATION OF THE FORMER MUNICIPALITY.

(3) THE TAX OR ASSESSMENT SHALL BE DISCONTINUED WHEN ALL DEBTS AND OBLIGATIONS OF THE FORMER MUNICIPALITY HAVE BEEN PAID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 41 and 42.

In this section and throughout this subtitle, the former references to "property" are deleted as included in the references to "assets".

In subsection (a) of this section, the phrase "[e]xcept as provided in subsection (b) of this section" is added for clarity.

Also in subsection (a) of this section, the reference to a repeal being accomplished "by a charter amendment adopted under this subtitle" is substituted for the former reference to a repeal being accomplished "as generally provided above in the subheading 'Charter Amendments'" for clarity.

Also in subsection (a) of this section, the former reference to the termination "of the existence" of the municipality is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to the petition "of 20 percent or more" of the qualified voters is deleted as unnecessary because under this subtitle the only petitions that are considered are those of 20% or more of the qualified voters.

In subsection (b)(3) of this section, the reference to the "resolution proposing the repeal of the municipal charter" is substituted for the former reference to the "charter amendment resolution" for clarity.

In subsection (c) of this section, the reference to the "codification" of the public local laws is substituted for the former reference to the "printing of the code" of public local laws for brevity.

In subsection (d) of this section, the former reference to "unpaid" debt is deleted as unnecessary because the term "debt" would only apply to items not yet paid.

In the introductory language of subsections (e), (f), and (g)(1) of this section, the references to the county commissioners or county council "of the county in which the municipality is located" are added for clarity.

In subsection (e)(2) of this section, the reference to "pay[ing]" the debts and obligations of a municipality is substituted for the former reference to "be[ing] responsible for payment of" the debts and obligations for brevity.

In the introductory language of subsection (f) of this section, the former reference to a written agreement with "the proper officers of" the municipality is deleted as implicit in entering into an agreement with the municipality.

In subsection (f)(1) of this section, the reference to "the transfer of" some or all of the assets of the municipality is substituted for the former reference to "taking over" some or all of the assets for accuracy. Similarly, in subsection (f)(2) of this section, the reference to "the assumption of" some or all of the debts and obligations of the municipality is substituted for the former reference to "taking over" some or all of the debts and obligations.

In subsection (f)(2) of this section, the reference to the "debts" of the municipality is substituted for the former reference to the "liabilities" of the municipality for consistency with the terminology used throughout this section.

In the introductory language of subsection (g)(1) of this section, the reference to "pay[ing]" debts and obligations is substituted for the former reference to "defray[ing]" debts and obligations for clarity.

In subsection (g)(1)(i) of this section, the reference to the "former" municipality is substituted for the former reference to the municipality "for which a charter was repealed" for brevity.

In subsection (g)(1)(ii) of this section, the reference to collecting the special tax or special assessment "in the same manner as other county property taxes are collected" is substituted for the former references to collecting the tax or assessment "in such a manner as other residents of the county may be taxed or assessed" and "with the same powers and procedures as exist for general county taxation" for brevity and consistency with other similar provisions of this article.

In subsection (g)(3) of this section, the former reference to debts and obligations being paid "in full" is deleted as surplusage.

Defined terms: "County" § 1–101
"Municipal charter" § 4–101
"Municipality" § 1–101
"Qualified voter" § 4–101
"State" § 1–101

4–314. REPEAL OF CHARTER — BY OPERATION OF LAW.

(A) CERTIFICATION OF INACTIVITY TO SECRETARY OF STATE.

IF THE FOLLOWING CONDITIONS ARE SATISFIED, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES PROMPTLY SHALL CERTIFY ALL THE FACTS TO THE SECRETARY OF STATE:

(1) A MUNICIPALITY FAILS FOR 3 CONSECUTIVE YEARS TO FILE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES A COMPREHENSIVE STATEMENT OF FINANCIAL CONDITION AS REQUIRED UNDER § 16–103 OF THIS ARTICLE;

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES HAS REASONABLE CAUSE TO BELIEVE THE MUNICIPALITY IS NO LONGER ACTIVELY OPERATING AS A MUNICIPALITY UNDER ITS CHARTER; AND

(3) THE LEGISLATIVE AUDITOR CERTIFIES THAT THE MUNICIPALITY HAS NO DEBTS OR OBLIGATIONS OUTSTANDING AND UNPAID.

(B) PROCLAMATION OF REPEAL.

(1) ON RECEIVING A CERTIFICATION UNDER SUBSECTION (A) OF THIS SECTION, THE SECRETARY OF STATE SHALL ISSUE A PUBLIC PROCLAMATION DECLARING THAT THE MUNICIPAL CHARTER IS REPEALED UNDER THIS SECTION.

(2) THE SECRETARY OF STATE SHALL FILE COPIES OF THE PROCLAMATION WITH:

(I) THE CLERK OF THE COURT OF APPEALS;

(II) THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED; AND

(III) THE DEPARTMENT OF LEGISLATIVE SERVICES.

(C) EFFECTIVE DATE OF REPEAL.

THE REPEAL OF THE MUNICIPAL CHARTER IS EFFECTIVE ON THE FIRST DAY OF THE MONTH AFTER A PROCLAMATION IS ISSUED UNDER SUBSECTION (B) OF THIS SECTION.

(D) EFFECT OF REPEAL.

ON AND AFTER THE EFFECTIVE DATE OF THE REPEAL:

(1) THE FORMER MUNICIPALITY MAY NOT BE TREATED AS A MUNICIPALITY; AND

(2) THE REPEALED MUNICIPAL CHARTER MAY NOT BE INCLUDED IN ANY LATER EDITION OR CODIFICATION OF PUBLIC LOCAL LAWS OF THE COUNTY IN WHICH THE MUNICIPALITY WAS LOCATED OR OF THE STATE.

(E) DISPOSITION OF ASSETS AND PAYMENT OF OBLIGATIONS.

IF THE ASSETS AND LIABILITIES OF THE FORMER MUNICIPALITY HAVE NOT BEEN DISPOSED OF BEFORE A MUNICIPAL CHARTER IS REPEALED, AFTER THE CHARTER IS REPEALED THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED SHALL:

(1) SUCCEED TO FULL OWNERSHIP, TITLE, AND CONTROL OF THE ASSETS OF THE MUNICIPALITY; AND

(2) LIQUIDATE THE DEBT OF THE MUNICIPALITY AS PROVIDED IN § 4–313 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 43.

In subsection (a)(1) of this section, the former reference to a municipality "subject to any of the provisions of this article" is deleted as unnecessary because all municipalities are subject to this division, which encompasses former Art. 23A.

In subsections (b)(1) and (c) of this section, the former references to the charter "including all amendment and additions thereto" are deleted as implicit in the references to "the municipal charter".

In subsection (c) of this section, the reference to the repeal of the municipal charter being "effective" is substituted for the former reference to the municipal charter "be[ing] and the same is hereby declared to be repealed" for brevity.

In the introductory language of subsection (d) of this section, the phrase "[o]n and after the effective date of the repeal" is substituted for the former phrase "[f]rom such latter date" for clarity.

In subsection (d)(1) and the introductory language of subsection (e) of this section, the references to the "former" municipality are added for clarity.

In subsection (d)(1) of this section, the former reference to a municipality not being "construed to be" a municipality is deleted as included in the reference to not being "treated as" a municipality.

In subsection (d)(2) of this section, the reference to the county "in which the municipality was located" is substituted for the former reference to the "particular" county for clarity.

Also in subsection (d)(2) of this section, the reference to the "codification" of public local laws is substituted for the former reference to the "printing of the code" of public local laws for brevity.

In the introductory language of subsection (e) of this section, the former reference to the disposition of assets and liabilities "by the proper officers of the municipal corporation," is deleted as implicit in the requirement to dispose of assets and liabilities.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the direction in subsection (e)(2) of this section to a county to liquidate the debt of a municipality is inconsistent with the requirement in subsection (a)(3) of this section that the Legislative Auditor certify that a municipality has no debt outstanding before a repeal of the charter occurs by operation of law.

Defined terms: "County" § 1–101
"Municipal charter" § 4–101
"Municipality" § 1–101

SUBTITLE 4. ANNEXATION.

4–401. POWER TO ENLARGE MUNICIPAL BOUNDARIES BY ANNEXATION.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, THE LEGISLATIVE BODY OF A MUNICIPALITY MAY ENLARGE ITS BOUNDARIES BY ANNEXATION AS PROVIDED IN THIS SUBTITLE.

(B) LAND TO WHICH POWER APPLIES.

THE POWER OF ANNEXATION APPLIES ONLY TO LAND THAT:

(1) IS CONTIGUOUS AND ADJOINING TO THE EXISTING BOUNDARIES OF THE MUNICIPALITY; AND

(2) DOES NOT CREATE AN UNINCORPORATED AREA THAT IS BOUNDED ON ALL SIDES BY:

(I) REAL PROPERTY PRESENTLY IN THE BOUNDARIES OF THE MUNICIPALITY;

(II) REAL PROPERTY PROPOSED TO BE IN THE BOUNDARIES OF THE MUNICIPALITY AS A RESULT OF THE PROPOSED ANNEXATION; OR

(III) ANY COMBINATION OF REAL PROPERTY DESCRIBED IN ITEM (I) OR (II) OF THIS ITEM.

(C) ANNEXATION OF LAND IN ANOTHER MUNICIPALITY PROHIBITED.

A MUNICIPALITY MAY NOT ANNEX LAND THAT IS IN ANOTHER MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(a) and (m).

In subsection (a) of this section, the reference to enlarging the boundaries of a municipality "by annexation" is added for clarity.

Also in subsection (a) of this section, the former reference to "corporate" boundaries of a municipality is deleted as surplusage.

Also in subsection (a) of this section, the former reference to the legislative body "by whatever name known" is deleted as surplusage.

In subsection (b) of this section, the references to the "boundaries" of the municipality are substituted for the former references to the "corporate area" and "corporate limits" for consistency with the terminology used throughout this article.

In subsection (c) of this section, the reference to "annex[ing]" land is substituted for the former reference to "an increase in the area within any municipal corporation" for brevity and consistency with the terminology used throughout this subtitle.

Also in subsection (c) of this section, the former reference to land within "the corporate limits of" another municipality is deleted as surplusage.

Defined term: "Municipality" § 1–101

4–402. INITIATION OF ANNEXATION — IN GENERAL.

AN ANNEXATION PROPOSAL MAY BE INITIATED BY:

(1) THE LEGISLATIVE BODY OF THE MUNICIPALITY AS PROVIDED IN § 4–403 OF THIS SUBTITLE; OR

(2) A PETITION IN ACCORDANCE WITH § 4–404 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 23A, § 19(b)(1), as it related to initiating an annexation by resolution, and the first sentence of (c), as it related to initiating an annexation by petition.

In the introductory language of this section, the reference to the "annexation proposal" is substituted for the former references to the "proposal for change" for clarity.

In item (2) of this section, the former reference to "written" is deleted as implicit in the reference to a "petition".

Defined term: "Municipality" § 1–101

4–403. PROPOSAL FOR ANNEXATION — INITIATION BY LEGISLATIVE BODY.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN ANNEXATION RESOLUTION MAY BE INTRODUCED IN THE LEGISLATIVE BODY OF THE MUNICIPALITY IN ACCORDANCE WITH:

(1) THE REQUIREMENTS AND PRACTICES APPLICABLE TO ITS LEGISLATIVE ENACTMENTS; AND

(2) THE REQUIREMENTS OF § 4–303(A) OF THIS TITLE.

(B) CONSENT OF RESIDENTS AND VOTERS REQUIRED.

BEFORE AN ANNEXATION RESOLUTION IS INTRODUCED, THE LEGISLATIVE BODY SHALL OBTAIN CONSENT FROM:

(1) AT LEAST 25% OF THE REGISTERED VOTERS WHO ARE RESIDENTS IN THE AREA TO BE ANNEXED; AND

(2) THE OWNERS OF AT LEAST 25% OF THE ASSESSED VALUATION OF THE REAL PROPERTY IN THE AREA TO BE ANNEXED.

(C) ANNEXATION RESOLUTION.

THE ANNEXATION RESOLUTION:

(1) SHALL DESCRIBE BY A SURVEY OF COURSES AND DISTANCES THE EXACT AREA TO BE ANNEXED;

(2) MAY ALSO DESCRIBE BY LANDMARKS AND OTHER WELL–KNOWN TERMS THE EXACT AREA TO BE ANNEXED; AND

(3) SHALL CONTAIN A COMPLETE AND DETAILED DESCRIPTION OF THE CONDITIONS AND CIRCUMSTANCES THAT APPLY TO:

(I) THE CHANGE IN BOUNDARIES; AND

(II) THE RESIDENTS AND PROPERTY IN THE AREA TO BE ANNEXED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(b)(1).

In the introductory language of subsection (a) of this section, the reference to an "annexation resolution" is substituted for the former reference to the "proposal for change may be initiated by resolution" for brevity.

Also in the introductory language of subsection (a) of this section, the former reference to a resolution "regularly" introduced into the legislative body is deleted as surplusage.

In subsection (a)(1) of this section, the former reference to the "usual" requirements and practices is deleted as surplusage.

In the introductory language of subsection (b) of this section, the phrase "[b]efore an annexation resolution is introduced," is substituted for the former reference to "but only after" the legislative body has obtained consent for clarity.

Also in the introductory language of subsection (b) of this section, the former reference to obtaining consent "for the proposal" is deleted as surplusage.

In subsection (c)(1) and (2) of this section, the references to the area "to be annexed" are substituted for the former reference to the area "proposed to be included in the change" for brevity.

Former Art. 23A, § 19(b)(2), which exempted from various requirements of this section specified property to be annexed if the property met certain requirements on or before January 1, 1983, is deleted as obsolete because the provisions were of no effect and could not be exercised after June 30, 1984.

Defined term: "Municipality" § 1–101

4–404. PROPOSAL FOR ANNEXATION — INITIATION BY PETITION.

(A) IN GENERAL.

SUBJECT TO § 4–413 OF THIS SUBTITLE, AN ANNEXATION PETITION SHALL BE SIGNED BY:

(1) AT LEAST 25% OF THE REGISTERED VOTERS WHO ARE RESIDENTS IN THE AREA TO BE ANNEXED; AND

(2) THE OWNERS OF AT LEAST 25% OF THE ASSESSED VALUATION OF THE REAL PROPERTY IN THE AREA TO BE ANNEXED.

(B) VERIFICATION OF COMPLIANCE WITH REQUIREMENTS.

AFTER AN ANNEXATION PETITION IS PRESENTED TO THE LEGISLATIVE BODY OF THE MUNICIPALITY, THE PRESIDING OFFICER OF THE LEGISLATIVE BODY SHALL VERIFY:

(1) THE SIGNATURES ON THE PETITION; AND

(2) THAT THE PETITION MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

(C) INTRODUCTION OF RESOLUTION IN LEGISLATIVE BODY.

(1) AFTER VERIFYING COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, THE PRESIDING OFFICER OF THE LEGISLATIVE BODY PROMPTLY SHALL CAUSE A RESOLUTION PROPOSING THE CHANGE OF BOUNDARIES AS REQUESTED BY THE PETITION TO BE INTRODUCED IN THE LEGISLATIVE BODY.

(2) THE ANNEXATION RESOLUTION SHALL CONFORM TO THE FORM AND CONTENT REQUIREMENTS OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(c).

In subsection (a) of this section, the phrase "[s]ubject to § 4–413 of this subtitle" is added for clarity.

Also in subsection (a) of this section and throughout this subtitle, the former references to the registered voters "in the precinct or precincts in which the territory to be annexed is located" are deleted as implicit in the references to the registered voters "who are residents in the area to be annexed".

In subsection (b)(2) of this section, the reference to verifying that the "petition meets the requirements of subsection (a) of this section" is substituted for the former reference to verifying that the "persons signing the petition represent … the persons who reside … and the owners of … real property located in the area to be annexed" for brevity.

Defined term: "Municipality" § 1–101

4–405. PROVISIONS OF RESOLUTION.

(A) IN GENERAL.

AN ANNEXATION RESOLUTION SHALL PROVIDE THAT THE RESIDENTS IN THE AREA TO BE ANNEXED AND THEIR PROPERTY SHALL BE ADDED TO THE MUNICIPALITY, GENERALLY SUBJECT OR NOT, AS APPLICABLE, TO SPECIFIC PROVISIONS OF THE MUNICIPAL CHARTER.

(B) SPECIAL TREATMENT FOR MUNICIPAL TAXATION, SERVICES, AND FACILITIES.

(1) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, AN ANNEXATION RESOLUTION MAY PROVIDE, FOR STATED PERIODS AND UNDER SPECIFIC CONDITIONS, SPECIAL TREATMENT OF THE RESIDENTS IN THE AREA TO BE ANNEXED AND THEIR PROPERTY AS TO:

(I) RATES OF MUNICIPAL TAXATION; AND

(II) MUNICIPAL SERVICES AND FACILITIES.

(2) AFTER AN ANNEXATION RESOLUTION TAKES EFFECT, ANY CHANGE IN THE PROVISIONS FOR SPECIAL TREATMENT FOR STATED PERIODS AND UNDER SPECIFIC CONDITIONS MAY BE MADE ONLY BY A RESOLUTION ENACTED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(n).

In subsection (a) of this section, the reference to "specific" provisions of the municipal charter is added for clarity.

Also in subsection (a) of this section, the reference to an "annexation resolution" is substituted for the former reference to a "resolution to add to the corporate boundaries of a municipal corporation" for brevity and consistency with the terminology throughout this subtitle.

Also in subsection (a) of this section, the reference to persons and property being added to the "municipality" is substituted for the former reference to persons and property being added to the "corporate boundaries" for clarity.

In subsection (b)(2) of this section, the phrase "[a]fter an annexation resolution takes effect" is added for clarity.

Defined terms: "Municipal charter" § 4–101
"Municipality" § 1–101

4–406. PUBLIC NOTICE AND HEARING ON RESOLUTION.

(A) IN GENERAL.

AFTER AN ANNEXATION RESOLUTION IS INTRODUCED, THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE MUNICIPALITY SHALL PUBLISH NOTICE IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION THAT:

(1) BRIEFLY AND ACCURATELY DESCRIBES THE PROPOSED ANNEXATION AND THE APPLICABLE CONDITIONS AND CIRCUMSTANCES; AND

(2) SPECIFIES THE DATE, TIME, AND PLACE THAT THE LEGISLATIVE BODY SETS FOR THE PUBLIC HEARING ON THE PROPOSED ANNEXATION.

(B) PUBLICATION OF NOTICE; DATE AND LOCATION OF HEARING.

(1) PUBLIC NOTICE OF THE ANNEXATION RESOLUTION SHALL BE PUBLISHED:

(I) 1. AT LEAST FOUR TIMES; OR

2. IF THE TOTAL AREA OF THE PROPOSED ANNEXATION IS 25 ACRES OR LESS, AT LEAST TWO TIMES;

(II) AT NOT LESS THAN WEEKLY INTERVALS; AND

(III) IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY AND THE AREA TO BE ANNEXED.

(2) THE PUBLIC HEARING SHALL BE:

(I) SET NO SOONER THAN 15 DAYS AFTER THE FINAL REQUIRED PUBLICATION OF THE PUBLIC NOTICE; AND

(II) HELD IN THE MUNICIPALITY OR THE AREA TO BE ANNEXED.

(C) NOTICE TO COUNTY AND PLANNING AGENCIES.

IMMEDIATELY AFTER THE FIRST PUBLICATION OF THE PUBLIC NOTICE, THE MUNICIPALITY SHALL PROVIDE A COPY OF THE PUBLIC NOTICE TO:

(1) THE GOVERNING BODY OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED; AND

(2) ANY REGIONAL OR STATE PLANNING AGENCY WITH JURISDICTION IN THE COUNTY.

(D) FIRST RIGHT TO BE HEARD.

THE COUNTY AND ANY REGIONAL OR STATE PLANNING AGENCY WITH JURISDICTION IN THE COUNTY HAS THE RIGHT TO BE HEARD BEFORE THE PUBLIC AT THE HEARING ON THE PROPOSED ANNEXATION.

(E) RESCHEDULING OR CONTINUATION OF HEARING.

(1) THE PUBLIC HEARING MAY BE RESCHEDULED FOR OR CONTINUED TO A LATER DATE NOT MORE THAN 30 DAYS AFTER:

(I) THE DATE WHEN THE HEARING WAS ORIGINALLY SCHEDULED; OR

(II) THE DATE ON WHICH THE HEARING BEGAN BUT WAS NOT COMPLETED.

(2) IF THE HEARING IS RESCHEDULED OR CONTINUED, PUBLIC NOTICE SHALL BE PUBLISHED:

(I) AT LEAST 7 DAYS BEFORE THE DATE OF THE RESCHEDULED OR CONTINUED HEARING; AND

(II) IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY AND THE AREA TO BE ANNEXED.

(3) THE PUBLIC NOTICE SHALL:

(I) BRIEFLY AND ACCURATELY DESCRIBE THE AREA TO BE ANNEXED; AND

(II) SPECIFY THE DATE, TIME, AND PLACE OF THE RESCHEDULED OR CONTINUED PUBLIC HEARING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(d).

In the introductory language of subsection (a) of this section, the reference to notice being published "in accordance with the requirements of this section" is added for clarity.

Also in the introductory language of subsection (a) of this section, the former reference to an annexation resolution introduced "into the legislative body of the municipal corporation" is deleted as unnecessary because the legislative body of a municipality is the only place a resolution under this subtitle can be introduced.

In subsection (a)(1) of this section, the reference to the proposed "annexation" is substituted for the former reference to the proposed "change" for clarity.

In subsection (a)(2) of this section, the reference to specifying the "date" for a public hearing is added for consistency with subsection (e)(3)(ii) of this section.

In subsection (b)(1)(i)2 of this section, the former reference to acres "of land" is deleted as implicit in the reference to "acres".

In subsection (b)(1)(iii) of this section, the reference to "at least one newspaper" is substituted for the former reference to "a newspaper or newspapers" for clarity and consistency with other similar provisions of the Code.

In the introductory language of subsection (b)(2) of this section, the reference to a "public" hearing is added for consistency with subsection (a)(2) of this section.

In subsection (b)(2)(i) of this section, the reference to 15 days after the "final required" publication of the public notice is substituted for the former references to the "fourth" publication and "if the total area of the

proposed annexation is for 25 acres of land or less, not less than 15 days after the second" publication of the notice for brevity.

In subsection (b)(2)(ii) of this section, the former reference to the "boundaries of the" municipality is deleted as surplusage.

In subsection (c)(1) of this section, the reference to the county "in which the municipality is located" is added for clarity.

In subsection (d) of this section, the reference to the hearing "on the proposed annexation" is substituted for the former reference to the "scheduled" hearing for clarity.

Also in subsection (d) of this section, the former phrase "after which the hearing shall be open to the general public" is deleted as implicit in the concept of a public hearing.

In subsection (e)(1)(i) of this section, the reference to the "hearing" is substituted for the former reference to the "meeting" for consistency within this section.

In subsection (e)(2) of this section, the former reference to a "single" notice being given is deleted as surplusage.

In subsection (e)(2)(ii) and (3)(i) of this section, the former references to the area "to be discussed" are deleted as surplusage.

In subsection (e)(3)(ii) of this section, the reference to the "rescheduled or continued" public hearing is added for clarity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference in subsection (a) of this section and throughout this subtitle to the chief executive "and" administrative officer of the municipality may be too limiting as it appears to contemplate a single individual. The various forms of municipal government may separate the roles of chief executive and administrative officer into more than one individual.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101
"State" § 1–101

4–407. ENACTMENT OF RESOLUTION.

(A) IN GENERAL.

AFTER A PUBLIC HEARING, THE LEGISLATIVE BODY OF A MUNICIPALITY MAY ENACT AN ANNEXATION RESOLUTION IN ACCORDANCE WITH ITS NORMAL LEGISLATIVE PROCEDURE.

(B) EFFECTIVE DATE.

THE ANNEXATION RESOLUTION MAY NOT TAKE EFFECT UNTIL AT LEAST 45 DAYS AFTER ITS ENACTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(e).

In subsection (a) of this section, the reference to the legislative body "of a municipality" is added for clarity.

Also in subsection (a) of this section, the reference to "normal legislative procedure" is substituted for the former reference to "usual requirements and practices applicable to its legislative enactments" for brevity and consistency with other similar provisions of this title.

In subsection (b) of this section and throughout this subtitle, the former references to the "final" enactment are deleted as surplusage.

Defined term: "Municipality" § 1–101

4–408. PETITION FOR REFERENDUM — BY RESIDENTS OF AREA TO BE ANNEXED.

(A) IN GENERAL.

SUBJECT TO § 4–413 OF THIS SUBTITLE, AT ANY TIME WITHIN 45 DAYS AFTER ENACTMENT OF AN ANNEXATION RESOLUTION, AT LEAST 20% OF THE REGISTERED VOTERS WHO ARE RESIDENTS IN THE AREA TO BE ANNEXED MAY PETITION THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE MUNICIPALITY IN WRITING FOR A REFERENDUM ON THE RESOLUTION.

(B) VERIFICATION OF COMPLIANCE WITH REQUIREMENTS.

AFTER A PETITION IS PRESENTED TO THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER, THE OFFICER SHALL VERIFY:

(1) THE SIGNATURES ON THE PETITION; AND

(2) THAT THE PETITION MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

(C) SUSPENSION OF RESOLUTION.

AFTER VERIFYING COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER, BY PROCLAMATION, SHALL SUSPEND THE EFFECTIVENESS OF THE ANNEXATION RESOLUTION PENDING THE RESULTS OF THE REFERENDUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(f).

In subsection (a) of this section, the phrase "[s]ubject to § 4–413 of this subtitle," is added for clarity.

In subsection (b)(2) of this section, the reference to verifying that the "petition meets the requirements of subsection (a) of this section" is substituted for the former reference to verifying that the "persons signing the petition represent … the persons who reside in the area … to be annexed is located" for brevity.

Defined term: "Municipality" § 1–101

4–409. PETITION FOR REFERENDUM — BY QUALIFIED VOTERS OF MUNICIPALITY.

(A) IN GENERAL.

AT ANY TIME WITHIN 45 DAYS AFTER ENACTMENT OF AN ANNEXATION RESOLUTION, AT LEAST 20% OF THE QUALIFIED VOTERS OF THE MUNICIPALITY MAY PETITION THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE MUNICIPALITY IN WRITING FOR A REFERENDUM ON THE RESOLUTION.

(B) VERIFICATION OF COMPLIANCE WITH REQUIREMENTS.

AFTER A PETITION IS PRESENTED TO THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER, THE OFFICER SHALL VERIFY:

(1) THE SIGNATURES ON THE PETITION; AND

(2) THAT THE PETITION MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

(C) SUSPENSION OF RESOLUTION.

AFTER VERIFYING COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER, BY PROCLAMATION, SHALL SUSPEND THE EFFECTIVENESS OF THE ANNEXATION RESOLUTION PENDING THE RESULTS OF THE REFERENDUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(g).

In subsection (b)(2) of this section, the reference to verifying that the "petition meets the requirements of subsection (a) of this section" is substituted for the former reference to verifying that the "persons signing the petition represent … the qualified voters of the municipal corporation" for brevity.

Defined terms: "Municipality" § 1–101
"Qualified voter" § 4–101

4–410. PETITION FOR REFERENDUM — BY COUNTY GOVERNING BODY.

(A) IN GENERAL.

AT ANY TIME WITHIN 45 DAYS AFTER ENACTMENT OF AN ANNEXATION RESOLUTION, THE GOVERNING BODY OF THE COUNTY OR COUNTIES IN WHICH THE MUNICIPALITY IS LOCATED, BY AT LEAST A TWO–THIRDS MAJORITY VOTE, MAY PETITION THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE MUNICIPALITY FOR A REFERENDUM ON THE RESOLUTION.

(B) SUSPENSION OF RESOLUTION.

AFTER VERIFYING COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER, BY PROCLAMATION, SHALL SUSPEND THE EFFECTIVENESS OF THE ANNEXATION RESOLUTION PENDING THE RESULTS OF THE REFERENDUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(h).

In subsection (a) of this section, the former reference to "in writing" is deleted as implicit in the reference to a "petition".

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101

4–411. DATE AND LOCATION FOR REFERENDUM; PUBLIC NOTICE.

(A) IN GENERAL.

THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE MUNICIPALITY SHALL SCHEDULE A REFERENDUM ON THE ANNEXATION RESOLUTION AND PUBLISH NOTICE OF THE DATE, TIME, AND PLACE AT WHICH THE REFERENDUM WILL BE HELD.

(B) DATE AND LOCATION OF REFERENDUM.

THE REFERENDUM SHALL BE HELD:

(1) NO SOONER THAN 15 DAYS AND NO LATER THAN 90 DAYS AFTER NOTICES OF THE REFERENDUM ARE PUBLISHED; AND

(2) AT ONE OR MORE PLACES IN:

(I) THE MUNICIPALITY, FOR THE REFERENDUM IN THE MUNICIPALITY; AND

(II) THE AREA TO BE ANNEXED, FOR THE REFERENDUM IN THAT AREA.

(C) PUBLICATION OF NOTICE.

PUBLIC NOTICE OF THE REFERENDUM SHALL BE PUBLISHED:

(1) TWICE AT NOT LESS THAN WEEKLY INTERVALS; AND

(2) IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY AND THE AREA TO BE ANNEXED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(i).

In subsection (a) of this section, the reference to publishing the "date" of the referendum is added for clarity and consistency with other similar provisions of this subtitle.

Also in subsection (a) of this section, the former reference to an "ordinance" is deleted as unnecessary in light of the reference to the "annexation resolution" and for consistency throughout this subtitle.

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

In subsection (b)(2) of this section, the former references to the "limits of" the municipality and the area to be annexed are deleted as surplusage.

In subsection (c)(3) of this section, the reference to "at least one newspaper" is substituted for the former reference to "a newspaper or newspapers" for clarity and consistency with other similar provisions of the Code.

Defined term: "Municipality" § 1–101

4–412. REFERENDUM.

(A) POWER TO CONDUCT REFERENDUM BY ORDINANCE, RESOLUTION, OR REGULATION.

THE GOVERNING BODY OF A MUNICIPALITY, BY ORDINANCE, RESOLUTION, OR REGULATION, MAY PROVIDE FOR CONDUCTING AND TABULATING THE RESULTS OF A REFERENDUM HELD UNDER THIS SUBTITLE.

(B) CONDUCT OF REFERENDUM.

(1) THE ANNEXATION RESOLUTION SHALL BE SUBMITTED TO:

(I) A REFERENDUM OF THE QUALIFIED VOTERS OF THE MUNICIPALITY IF THE PETITION FOR REFERENDUM WAS PRESENTED BY THE RESIDENTS OF THE MUNICIPALITY;

(II) SUBJECT TO § 4–413 OF THIS SUBTITLE, A REFERENDUM OF THE REGISTERED VOTERS WHO ARE RESIDENTS IN THE AREA TO BE ANNEXED IF THE PETITION FOR REFERENDUM WAS PRESENTED BY THE RESIDENTS OF THE AREA TO BE ANNEXED; OR

(III) SEPARATE REFERENDUMS OF THE VOTERS SPECIFIED IN ITEMS (I) AND (II) OF THIS PARAGRAPH IF A PETITION FOR REFERENDUM WAS PRESENTED BY THE RESIDENTS OF THE MUNICIPALITY AND THE RESIDENTS IN THE AREA TO BE ANNEXED.

(2) A PETITION FOR REFERENDUM PRESENTED BY THE GOVERNING BODY OF A COUNTY SHALL BE ACTED ON IN THE SAME MANNER AS A

PETITION FOR REFERENDUM PRESENTED BY THE RESIDENTS OF THE AREA TO BE ANNEXED.

(C) BALLOTS.

THE BALLOT SHALL:

(1) CONTAIN A SUMMARY OF THE ANNEXATION RESOLUTION; AND

(2) PROVIDE FOR THE VOTER TO INDICATE A CHOICE FOR OR AGAINST THE ANNEXATION RESOLUTION.

(D) RESULTS OF REFERENDUM.

(1) IF ONLY ONE PETITION FOR A REFERENDUM IS FILED AND IF A MAJORITY OF THE PERSONS VOTING ON THE ANNEXATION RESOLUTION VOTE FOR THE RESOLUTION, THE RESOLUTION TAKES EFFECT ON THE 14TH DAY AFTER THE REFERENDUM.

(2) (I) IF A REFERENDUM IS CONDUCTED FOR BOTH THE RESIDENTS OF THE MUNICIPALITY AND THE RESIDENTS IN THE AREA TO BE ANNEXED, THE VOTES CAST FOR THE TWO REFERENDUMS SHALL BE TABULATED SEPARATELY TO SHOW THE VOTES CAST IN THE MUNICIPALITY AND THE AREA TO BE ANNEXED.

(II) IF IN BOTH REFERENDUMS A MAJORITY OF THE PERSONS VOTING ON THE ANNEXATION RESOLUTION VOTE FOR THE RESOLUTION, THE RESOLUTION TAKES EFFECT ON THE 14TH DAY AFTER THE REFERENDUM.

(III) IF TWO REFERENDUMS ARE HELD, THE ANNEXATION RESOLUTION IS VOID UNLESS A MAJORITY IN BOTH REFERENDUMS VOTE FOR THE RESOLUTION.

(E) COST OF REFERENDUM.

THE MUNICIPALITY SHALL PAY FOR A REFERENDUM HELD UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(j), (l), and (r).

In the introductory language of subsection (b)(1) of this section, the former reference to the resolution being submitted "[o]n the date and at the places specified," is deleted as surplusage.

Also in the introductory language of subsection (b)(1) of this section, the reference to an "annexation resolution" is substituted for the former reference to the "resolution proposing a change in the corporate boundaries of the municipal corporation" for brevity and consistency with the terminology used throughout this subtitle.

In subsection (b)(1)(ii) of this section, the phrase "subject to § 4–413 of this subtitle," is added for clarity.

In subsection (b)(1)(iii) of this section, the reference to "separate referendums" is added for consistency with subsection (d) of this section.

In the introductory language of subsection (c) of this section, the former reference to "voting machines" is deleted as included in the reference to a "ballot".

In subsection (d) of this section, the references to the "resolution" are substituted for the former references to the "change" for clarity.

In subsection (d)(1) and (2)(ii) of this section, the former references to the resolution taking effect "as proposed" are deleted as surplusage.

In subsection (d)(1) of this section, the reference to persons voting on the "annexation resolution" is substituted for the former reference to persons voting on the "question in that referendum" for clarity. Similarly, in subsection (d)(2)(ii) of this section, the reference to persons voting on the "annexation resolution" is substituted for the former reference to voting on the "question".

In subsection (d)(2)(i) of this section, the reference to "a referendum … conducted for both the residents of the municipality and the residents in the area to be annexed" is substituted for the former reference to "two petitions for referendum [being] filed" for clarity and consistency with subsection (b)(1) of this section.

In subsection (d)(2)(ii) and (iii) of this section, the references to both "referendums" are substituted for the former references to both "tabulations" for accuracy.

Also in subsection (d)(2)(ii) and (iii) of this section, the former references to tabulations being "reckoned separately" are deleted as implicit in the requirement in subsection (d)(2)(i) of this section that the referendums be tabulated separately.

In subsection (d)(2)(iii) of this section, the former reference to the resolution being "of no further effect whatsoever" is deleted as included in the reference to the resolution being "void".

In subsection (e) of this section, the former reference to paying "in full for the expenses of" a referendum is deleted as surplusage.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101
"Person" § 1–101
"Qualified voter" § 4–101

4–413. RIGHT OF PROPERTY OWNERS TO PARTICIPATE.

IF FEWER THAN 20 RESIDENTS IN AN AREA TO BE ANNEXED ARE ELIGIBLE TO SIGN A PETITION FOR ANNEXATION AND VOTE IN A REFERENDUM UNDER THIS SUBTITLE, ANY PERSON, INCLUDING THE TWO OR MORE JOINT OWNERS OF JOINTLY OWNED PROPERTY, WHO OWNS REAL PROPERTY IN THE AREA TO BE ANNEXED MAY SIGN THE PETITION AND VOTE IN THE REFERENDUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(k).

The reference to a petition "for annexation" is added for clarity.

The references to "vot[ing]" in a referendum are substituted for the former references to "participat[ing]" in a referendum for clarity.

The former phrase "[f]or the purposes of this section" is deleted as surplusage.

The former reference to "an association … a firm or corporation" is deleted as included in the reference to a "person".

The statement that an owner of real property "may" sign the petition is substituted for the former reference to an owner of real property "hav[ing] a right equal to that of a natural person" for brevity.

Defined term: "Person" § 1–101

4–414. COPIES OF RESOLUTION.

(A) IN GENERAL.

(1) THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF A MUNICIPALITY THAT HAS ANNEXED PROPERTY SHALL SEND A COPY OF THE ANNEXATION RESOLUTION WITH THE NEW BOUNDARIES TO:

(I) THE CLERK OR SIMILAR OFFICIAL OF THE MUNICIPALITY;

(II) THE CLERK OF THE COURT IN ANY COUNTY IN WHICH THE MUNICIPALITY IS LOCATED;

(III) THE DEPARTMENT OF LEGISLATIVE SERVICES IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION; AND

(IV) FOR ANY MUNICIPALITY LOCATED IN THE REGIONAL DISTRICT, THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

(2) THE ANNEXATION RESOLUTION SHALL BE SENT TO THE DEPARTMENT OF LEGISLATIVE SERVICES WITHIN 10 DAYS AFTER THE RESOLUTION TAKES EFFECT.

(B) KEEPING RECORD OF RESOLUTION; PUBLIC INSPECTION.

EACH OFFICIAL OR AGENCY THAT RECEIVES AN ANNEXATION RESOLUTION UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) KEEP ON RECORD THE RESOLUTION WITH THE NEW BOUNDARIES; AND

(2) MAKE THE RESOLUTION AVAILABLE FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 19(p) and 9A(c)(2).

In the introductory language of subsection (a)(1) of this section, the reference to sending "a copy of" the annexation resolution is added for clarity.

Also in the introductory language of subsection (a)(1) of this section, the reference to the municipality "annex[ing] property" is substituted for the former reference to the municipality "enlarg[ing] its corporate boundaries under the provisions of this section" for brevity.

Also in the introductory language of subsection (a)(1) of this section, the former reference to the "mayor" is deleted as included in the reference to "chief executive and administrative officer".

Also in the introductory language of subsection (a)(1) of this section, the former reference to the chief executive officer "by whatever name known," is deleted as surplusage.

Also in the introductory language of subsection (a)(1) of this section, the former reference to "promptly" sending a copy of the annexation resolution is deleted as implicit.

In the introductory language of subsection (b) of this section, the reference to each "agency" that receives an annexation is added for consistency with subsection (a) of this section.

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

4–415. ANNEXATION PLAN.

(A) IN GENERAL.

IN ADDITION TO, BUT NOT AS PART OF, AN ANNEXATION RESOLUTION, THE LEGISLATIVE BODY OF THE MUNICIPALITY SHALL ADOPT AN ANNEXATION PLAN FOR THE AREA TO BE ANNEXED.

(B) ANNEXATIONS BEFORE OCTOBER 1, 2009.

EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, FOR AN ANNEXATION THAT BEGAN BEFORE OCTOBER 1, 2009, THE ANNEXATION PLAN SHALL:

(1) CONTAIN A DESCRIPTION OF THE LAND USE PATTERN PROPOSED FOR THE AREA TO BE ANNEXED, WHICH MAY INCLUDE A COUNTY MASTER PLAN ALREADY IN EFFECT FOR THE AREA;

(2) DESCRIBE THE SCHEDULE TO EXTEND EACH MUNICIPAL SERVICE PERFORMED IN THE MUNICIPALITY AT THE TIME OF THE ANNEXATION TO THE AREA TO BE ANNEXED;

(3) DESCRIBE THE GENERAL METHODS BY WHICH THE MUNICIPALITY ANTICIPATES FINANCING THE EXTENSION OF MUNICIPAL SERVICES TO THE AREA TO BE ANNEXED; AND

(4) BE PRESENTED SO AS TO DEMONSTRATE THE AVAILABLE LAND FOR PUBLIC FACILITIES THAT MAY BE CONSIDERED REASONABLY NECESSARY FOR THE PROPOSED USE, INCLUDING FACILITIES FOR SCHOOLS, WATER OR SEWAGE TREATMENT, LIBRARIES, RECREATION, OR FIRE OR POLICE SERVICES.

(C) ANNEXATIONS ON OR AFTER OCTOBER 1, 2009.

EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, FOR ANNEXATION THAT BEGINS ON OR AFTER OCTOBER 1, 2009, THE ANNEXATION PLAN SHALL BE CONSISTENT WITH THE MUNICIPAL GROWTH ELEMENT OF THE COMPREHENSIVE PLAN OF THE MUNICIPALITY.

(D) WHEN ANNEXATION BEGINS.

FOR PURPOSES OF SUBSECTIONS (B) AND (C) OF THIS SECTION, AN ANNEXATION BEGINS WHEN A PROPOSAL FOR ANNEXATION IS INITIATED BY:

(1) RESOLUTION UNDER § 4–403 OF THIS SUBTITLE; OR

(2) PETITION UNDER § 4–404 OF THIS SUBTITLE.

(E) EXTENSION FOR INCLUSION OF MUNICIPAL GROWTH ELEMENT.

(1) ON OR AFTER OCTOBER 1, 2009, A MUNICIPALITY MAY SUBMIT AN ANNEXATION PLAN UNDER SUBSECTION (B) OF THIS SECTION IF THE MUNICIPALITY IS GRANTED AN EXTENSION FOR THE INCLUSION OF A MUNICIPAL GROWTH ELEMENT UNDER § 3–304 OF THE LAND USE ARTICLE.

(2) AFTER THE EXPIRATION OF A FINAL EXTENSION GRANTED UNDER § 3–304 OF THE LAND USE ARTICLE FOR THE INCLUSION OF A MUNICIPAL GROWTH ELEMENT, AN ANNEXATION PLAN SHALL BE SUBMITTED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

(F) COPIES OF ANNEXATION PLAN.

AT LEAST 30 DAYS BEFORE THE PUBLIC HEARING ON AN ANNEXATION RESOLUTION REQUIRED UNDER § 4–406 OF THIS SUBTITLE, A COPY OF THE ANNEXATION PLAN SHALL BE PROVIDED TO:

(1) THE GOVERNING BODY OF ANY COUNTY IN WHICH THE MUNICIPALITY IS LOCATED;

(2) THE DEPARTMENT OF PLANNING; AND

(3) ANY REGIONAL OR STATE PLANNING AGENCY WITH JURISDICTION IN THE COUNTY.

(G) CONSIDERATION AT HEARING ON ANNEXATION RESOLUTION; EFFECT OF AMENDMENT.

(1) THE ANNEXATION PLAN SHALL BE OPEN TO PUBLIC REVIEW AND DISCUSSION AT THE PUBLIC HEARING ON THE ANNEXATION RESOLUTION.

(2) AN AMENDMENT TO THE ANNEXATION PLAN DOES NOT:

(I) AMEND THE PROPOSED ANNEXATION RESOLUTION; OR

(II) CAUSE A REINITIATION OF THE ANNEXATION PROCEDURE THEN IN PROCESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19(o).

In subsection (b)(4) of this section, the reference to fire or police "services" is added for clarity.

In subsection (d)(2) of this section, the former reference to "written" petition is deleted as implicit in the reference to a "petition".

In the introductory language of subsection (f) and in subsection (g)(1) of this section, the references to the hearing "on [an] annexation resolution" are added for clarity.

In subsection (g)(2) of this section, the former references to the annexation plan not "in any way" amending the annexation resolution or "serv[ing] in any manner" to cause a reinitiation of the annexation procedure are deleted as surplusage.

In subsection (g)(2)(i) of this section, the reference to the "proposed" annexation resolution is added for clarity.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101
"State" § 1–101

4–416. PLANNING AND ZONING AUTHORITY.

(A) EXISTING MUNICIPAL AUTHORITY.

(1) NOTWITHSTANDING § 4–104(F) OF THIS TITLE, IF AN AREA IS ANNEXED TO A MUNICIPALITY THAT HAS PLANNING AND ZONING AUTHORITY AT THE TIME OF ANNEXATION, THE MUNICIPALITY SHALL HAVE EXCLUSIVE JURISDICTION OVER PLANNING, SUBDIVISION CONTROL, AND ZONING IN THE AREA ANNEXED.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT GRANT ANY PLANNING OR ZONING POWER OR SUBDIVISION CONTROL TO A MUNICIPALITY THAT IS NOT AUTHORIZED TO EXERCISE PLANNING OR ZONING POWER OR SUBDIVISION CONTROL AT THE TIME OF ANNEXATION.

(B) DIFFERENT LAND USE OR DENSITY.

WITHOUT THE EXPRESS APPROVAL OF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED, FOR 5 YEARS AFTER AN ANNEXATION BY A MUNICIPALITY, THE MUNICIPALITY MAY NOT ALLOW DEVELOPMENT OF THE ANNEXED LAND FOR LAND USES SUBSTANTIALLY DIFFERENT THAN THE AUTHORIZED USE, OR AT A SUBSTANTIALLY HIGHER DENSITY, NOT EXCEEDING 50%, THAN COULD BE GRANTED FOR THE PROPOSED DEVELOPMENT, IN ACCORDANCE WITH THE ZONING CLASSIFICATION OF THE COUNTY APPLICABLE AT THE TIME OF THE ANNEXATION.

(C) COUNTY APPROVAL OF ZONING CLASSIFICATION.

NOTWITHSTANDING § 4–204 OF THE LAND USE ARTICLE AND IF THE COUNTY EXPRESSLY APPROVES, THE MUNICIPALITY MAY PLACE THE ANNEXED LAND IN A ZONING CLASSIFICATION THAT ALLOWS A LAND USE OR DENSITY DIFFERENT FROM THE LAND USE OR DENSITY SPECIFIED IN THE ZONING CLASSIFICATION OF THE COUNTY OR AGENCY WITH PLANNING AND ZONING JURISDICTION OVER THE LAND PRIOR TO ITS ANNEXATION APPLICABLE AT THE TIME OF THE ANNEXATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 9(c)(2) and the second sentence of (1) and the second sentence of § 19(s).

In subsection (a)(1) of this section, the reference to a municipality having planning and zoning authority "at the time of annexation" is substituted for the former references to a municipality "then" having authority for clarity.

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

SUBTITLE 5. MERGER OF MUNICIPALITIES.

4–501. AUTHORIZED MERGERS.

(A) MERGER OF ADJOINING MUNICIPALITIES.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, TWO OR MORE ABUTTING MUNICIPALITIES LOCATED IN THE SAME COUNTY MAY MERGE TO FORM ONE MUNICIPALITY.

(B) APPROVAL REQUIRED.

THE GOVERNING BODY OF THE COUNTY MUST APPROVE ANY MERGER UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19A(a).

In subsection (a) of this section, the phrase "[s]ubject to subsection (b) of this section" is added for clarity.

Also in subsection (a) of this section, the reference to "abutting" municipalities is substituted for the former phrase "if any part of the legal boundary of one of the municipal corporations abuts on the legal boundary of the other uniting municipal corporations" for brevity.

In subsection (b) of this section, the former reference to the county "in which the municipal corporations are situated" is deleted as implicit because no other counties would have an interest in the merger.

Also in subsection (b) of this section, the former reference to "prior" approval is deleted as implicit in the requirement for approval.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"Municipality" § 1–101

4–502. PROPOSAL OF UNIFICATION.

(A) INITIATION OF UNIFICATION.

TO INITIATE A MERGER, THE LEGISLATIVE BODY OF EACH MUNICIPALITY SHALL ADOPT A PROPOSAL OF UNIFICATION.

(B) ADOPTION PROCESS.

EACH MUNICIPALITY SHALL ADOPT THE PROPOSAL OF UNIFICATION:

(1) IN SUBSTANTIALLY IDENTICAL FORM; AND

(2) IN THE MANNER THAT THE MUNICIPALITY ADOPTS ORDINARY LEGISLATION.

(C) DETAILED DESCRIPTION.

THE PROPOSAL OF UNIFICATION SHALL INCLUDE A DETAILED DESCRIPTION OF THE BOUNDARIES OF THE PROPOSED MUNICIPALITY THAT:

(1) IS COMPRISED OF A SURVEY OF COURSES AND DISTANCES; AND

(2) MAY REFER TO GENERAL LANDMARKS AND PLACE NAMES.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through fourth sentences of former Art. 23A, § 19A(b).

In subsection (a) and the introductory language of subsection (b) of this section, the references to "adopt[ing]" a proposal of unification are substituted for the former references to "pass[ing]" and "approv[ing]" a proposal, respectively, for consistency with other similar provisions of this subtitle.

In subsection (b)(2) of this section, the former reference to "other" ordinary legislation is deleted as surplusage.

Also in subsection (b)(2) of this section, the former reference to the municipality "which is considering the proposal of unification" is deleted as surplusage.

Also in subsection (b)(2) of this section, the former reference to the manner of adopting legislation "provided for … by the municipal charter or bylaws of the municipal corporation" is deleted as implicit.

In the introductory language of subsection (c) of this section, the reference to the "proposed municipality" is substituted for the former reference to the "area of proposed unification" for brevity.

Defined term: "Municipality" § 1–101

4–503. CHARTER COMMISSION.

(A) PREPARATION OF UNIFIED CHARTER.

AFTER BOTH MUNICIPALITIES ADOPT THE PROPOSAL OF UNIFICATION, THE MUNICIPALITIES SHALL PREPARE A UNIFIED CHARTER.

(B) REPRESENTATIVES.

(1) EACH MUNICIPALITY SHALL APPOINT THREE, FOUR, OR FIVE REPRESENTATIVES TO SERVE ON A CHARTER COMMISSION.

(2) EACH MUNICIPALITY SHALL APPOINT THE SAME NUMBER OF REPRESENTATIVES.

(C) MEETING OF REPRESENTATIVES.

(1) THE REPRESENTATIVES SHALL MEET AS A CHARTER COMMISSION.

(2) WITHIN 6 MONTHS AFTER THE MUNICIPALITIES ADOPT THE PROPOSAL OF UNIFICATION, THE COMMISSION SHALL DRAFT A PROPOSED UNIFIED CHARTER.

(D) RULES; OFFICERS.

(1) THE CHARTER COMMISSION SHALL ELECT OFFICERS FROM AMONG THE REPRESENTATIVES.

(2) AS THE REPRESENTATIVES CONSIDER NECESSARY, THE CHARTER COMMISSION MAY ADOPT RULES TO GOVERN MEETINGS AND EXPEDITE THE DRAFTING OF THE UNIFIED CHARTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19A(c) and the fifth sentence of (b).

In subsection (a) of this section, the reference to a proposal of unification being "adopt[ed]" is substituted for the former reference to a proposal

being "approv[ed]" for consistency with other similar provisions of this subtitle.

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

In subsection (b)(1) of this section, the phrase "to serve on a charter commission" is added for clarity.

In subsection (c)(2) of this section, the former reference to the proposal "required by this section" is deleted as surplusage.

In subsection (d)(2) of this section, the former provision that "none of these rules may conflict with any of the provisions and requirements of Article 23A of the Code" is deleted as unnecessary because administrative rules do not supersede statutory law.

Defined term: "Municipality" § 1–101

4–504. UNIFIED CHARTER.

(A) SEPARATE LEGAL DOCUMENT.

THE UNIFIED CHARTER IS A LEGAL DOCUMENT SEPARATE FROM ANY OTHER LEGAL INSTRUMENT.

(B) ASSETS AND LIABILITIES OF MERGING MUNICIPALITIES.

THE UNIFIED CHARTER SHALL PROVIDE THAT THE UNIFIED MUNICIPALITY RECEIVE THE ASSETS AND LIABILITIES OF THE MERGING MUNICIPALITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19A(d) and the third sentence of (g).

In subsection (b) of this section, the reference to the "merging" municipalities is substituted for the former reference to the "individual" municipalities for clarity.

Also in subsection (b) of this section, the reference to "liabilities" is substituted for the former reference to "unpaid debts" for clarity.

Also in subsection (b) of this section, the former reference to "all of" the assets and liabilities is deleted as surplusage.

Defined term: "Municipality" § 1–101

4–505. ACTION ON UNIFIED CHARTER BY LEGISLATIVE BODIES.

(A) SUBMISSION OF PROPOSED CHARTER TO MUNICIPALITIES.

(1) THE CHARTER COMMISSION SHALL SUBMIT A PROPOSED UNIFIED CHARTER TO THE LEGISLATIVE BODY OF EACH MUNICIPALITY.

(2) THE LEGISLATIVE BODY SHALL INCLUDE THE PROPOSED CHARTER IN A RESOLUTION THAT IS CONSIDERED IN ACCORDANCE WITH THE PROCEDURAL REQUIREMENTS PROVIDED FOR CHARTER AMENDMENTS IN §§ 4–303(A) AND 4–304 OF THIS TITLE.

(3) FOR PURPOSES OF § 4–303(A) OF THIS TITLE, THE RESOLUTION IS CONSIDERED TO EMBRACE ONLY ONE SUBJECT.

(B) ADOPTION, REJECTION, OR AMENDMENT.

EACH LEGISLATIVE BODY MAY:

(1) ADOPT OR REJECT THE RESOLUTION; OR

(2) AMEND THE RESOLUTION, IF THE LEGISLATIVE BODIES OF THE OTHER MUNICIPALITIES CONCUR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19A(f).

In subsection (a)(2) of this section, the reference to "[t]he legislative body" including the proposed charter in a resolution is added for clarity.

Also in subsection (a)(2) of this section, the reference to the resolution being "considered in accordance with" the procedural requirements provided for charter amendments is substituted for the former reference to the resolution being "adopted and conform[ing] to" the requirements for clarity.

In subsection (b)(1) of this section, the former reference to adopting or rejecting the resolution "as a whole" is deleted as surplusage.

In subsection (b)(2) of this section, the former reference to "chang[ing]" the resolution is deleted as included in the reference to "amend[ing]" the resolution.

Also in subsection (b)(2) of this section, the former reference to making an amendment in "any part of" the resolution is deleted as surplusage.

Also in subsection (b)(2) of this section, the former reference to municipalities concurring "in the change" is deleted as surplusage.

Defined term: "Municipality" § 1–101

4–506. REFERENDUM PROCEDURES.

(A) TIMING.

IF A REFERENDUM IS REQUIRED UNDER § 4–304 OF THIS TITLE, THE REFERENDUM SHALL OCCUR ON THE SAME DAY IN EACH MUNICIPALITY.

(B) ADMINISTRATION AND COST.

EACH MUNICIPALITY SHALL ADMINISTER AND PAY FOR THE REFERENDUM IN PROPORTION TO ITS RESPECTIVE POPULATION.

(C) MAJORITY NEEDED.

IN A REFERENDUM, THE UNIFIED CHARTER IS ADOPTED IF A MAJORITY OF VOTES CAST IN EACH MUNICIPALITY IS IN FAVOR OF ADOPTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through third sentences of former Art. 23A, § 19A(h).

In subsection (a) of this section, the reference to "each municipality" is substituted for the former reference to "all areas to be included in the unified municipal corporation" for brevity.

In subsection (c) of this section, the reference to "votes cast … in favor of adoption" by a majority of voters is substituted for the former reference to "approval" of a majority of voters for clarity.

Also in subsection (c) of this section, the former reference to the "uniting" municipalities is deleted as surplusage.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that it is unclear what referendum requirements apply to a referendum under this section, including requirements for who can sign a petition and how many signatures are needed.

Defined term: "Municipality" § 1–101

4–507. EFFECT OF APPROVAL OR DISAPPROVAL OF UNIFIED CHARTER.

(A) EFFECT OF DISAPPROVAL.

IF A MAJORITY OF THE VOTERS CASTING VOTES IN ANY MUNICIPALITY AT A REFERENDUM DO NOT VOTE TO ADOPT THE UNIFIED CHARTER, THE PROPOSED MERGER IS NOT APPROVED.

(B) EFFECT OF APPROVAL.

IF THE UNIFIED CHARTER IS ADOPTED, BY REFERENDUM OR BY THE LEGISLATIVE BODIES WHEN A REFERENDUM IS NOT REQUIRED, THE ADOPTION IS FINAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19A(i) and the fourth sentence of (h).

In this section, the references to "adopt[ing]" the unified charter are substituted for the former references to "[a]pprov[ing]" the unified charter for consistency with other similar provisions of this subtitle.

In subsection (a) of this section, the reference to "a majority of the voters casting votes … at a referendum" is substituted for the former reference to "the required vote at a referendum election held pursuant to this article" for clarity.

Also in subsection (a) of this section, the reference to the merger being "not approved" is substituted for the former reference to the merger being "null and void" for clarity.

In subsection (b) of this section, the former reference to adoption "by voters" is deleted as implicit in the reference to a "referendum".

Also in subsection (b) of this section, the former reference to a referendum "when required" is deleted as surplusage.

Also in subsection (b) of this section, the former reference to the legislative bodies "of each of the uniting municipal corporations" is deleted as surplusage.

Also in subsection (b) of this section, the former reference to approval of a unified charter being "not subject to further action" is deleted as implicit in the reference to the adoption being "final".

The Local Government Article Review Committee notes, for consideration by the General Assembly, that it is unclear in this section when the charter of a new municipality formed as the result of a merger takes effect.

Defined term: "Municipality" § 1–101

4–508. POSTAPPROVAL PROCEDURES.

(A) TRANSFER OF ASSETS.

(1) A MERGING MUNICIPALITY SHALL TRANSFER ITS ASSETS AND LIABILITIES TO THE UNIFIED MUNICIPALITY.

(2) THE MERGING MUNICIPALITY SHALL TRANSFER THE ASSETS AND LIABILITIES BY LEGAL INSTRUMENTS SEPARATE FROM THE UNIFIED CHARTER AND RESOLUTION.

(3) THE INVALIDITY OF A LEGAL INSTRUMENT THAT TRANSFERS OR DISPOSES OF ANY PROPERTY OF A MERGING MUNICIPALITY DOES NOT AFFECT THE VALIDITY OF THE UNIFIED CHARTER.

(B) INFORMATION TO BE SENT TO DEPARTMENT OF LEGISLATIVE SERVICES.

WITHIN 60 DAYS AFTER THE UNIFIED CHARTER IS ADOPTED, THE LEGISLATIVE BODIES OF THE MERGING MUNICIPALITIES JOINTLY SHALL SEND THE INFORMATION CONCERNING THE CHARTER TO THE DEPARTMENT OF LEGISLATIVE SERVICES AS PROVIDED IN § 4–109 OF THIS TITLE.

(C) CODIFICATION OF CHARTER.

THE EXACT TEXT OF THE UNIFIED CHARTER ADOPTED UNDER THIS SUBTITLE, INCLUDING ANY AMENDMENTS, SHALL BE INCLUDED IN ANY EDITION OR CODIFICATION OF THE CHARTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19A(j), (k), and the first and second sentences of (g).

In subsection (a)(1) of this section, the reference to the "merging municipalities" is substituted for the former reference to the "municipal corporations which approve the unified charter" for brevity and clarity.

Also in subsection (a)(1) of this section, the former reference to assets and liabilities "not otherwise disposed of by the effective date of the unification charter" is deleted as unnecessary because an asset or liability already disposed of would no longer be an asset or liability of the municipality.

In subsection (a)(2) of this section, the former reference to legal instruments "apart" from the charter and resolution is deleted as included in the reference to legal instruments "separate" from them.

In subsection (a)(3) of this section, the former reference to the "legal force and effect" of the unified charter is deleted as included in the reference to the "validity" of the unified charter.

In subsection (b) of this section, the former reference to the unified charter being adopted "by the legislative bodies of the unifying municipal corporations or by a referendum election" is deleted as unnecessary because they are the only ways a charter can be adopted.

Also in subsection (b) of this section, the former reference to the charter "adopted by the unified municipal corporation" is deleted as surplusage.

In subsection (c) of this section, the former reference to the charter being amended "from time to time" is deleted as surplusage.

Defined term: "Municipality" § 1–101

4–509. PLANNING AND ZONING.

(A) IN GENERAL.

UNLESS THE ZONING CLASSIFICATION IS AMENDED UNDER THE PROCEDURES REQUIRED BY THE COUNTY, FOR 5 YEARS AFTER THE EFFECTIVE DATE OF THE UNIFIED CHARTER, THE LAND OF A MERGING MUNICIPALITY THAT DOES NOT HAVE PLANNING AND ZONING POWERS MAY NOT BE PLACED IN A ZONING CLASSIFICATION THAT ALLOWS A LAND USE SUBSTANTIALLY DIFFERENT FROM THE USE ALLOWED BY THE MASTER PLAN OR PLAN OF THE COUNTY OR AGENCY THAT HAS PLANNING AND ZONING JURISDICTION OVER THE LAND BEFORE THE MERGER.

(B) LIMITATIONS.

THIS SUBTITLE DOES NOT GRANT PLANNING AND ZONING POWERS TO A UNIFIED MUNICIPALITY IF NONE OF THE MERGING MUNICIPALITIES HAS PLANNING AND ZONING POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 19A(e).

In subsection (a) of this section, the former reference to the unified charter "contain[ing] all the powers held by the separate municipal corporations" is deleted for clarity because of the implication that powers of the unified municipality would be limited to the powers of the merging municipalities.

Also in subsection (a) of this section, the reference to a "zoning classification" being amended is added for clarity.

Also in subsection (a) of this section, the former reference to the "current and duly adopted" master plan is deleted as surplusage.

Also in subsection (a) of this section, the former reference to the county "in which the municipal corporation is situated" is deleted as surplusage.

In subsection (b) of this section, the reference to the "merging municipalities" is substituted for the former reference to the "separate corporations to be included in the unified corporation" for brevity.

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

TITLE 5. POWERS.

SUBTITLE 1. IN GENERAL.

5–101. TAX TO PAY JUDGMENT OR DECREE OF COURT.

A MUNICIPALITY MAY IMPOSE A PROPERTY TAX TO PAY A JUDGMENT OR DECREE AGAINST IT IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 181.

The reference to "impos[ing] a property tax" is substituted for the former reference to "levy[ing] a sum of money upon the assessable property of such municipality" for brevity and consistency with other similar provisions of the Code.

The former reference to a judgment or decree "in any court of law or equity" is deleted as obsolete because of the elimination of the distinction between law and equity for purposes of pleadings, parties, court sittings, and dockets that was effected by revisions to the Federal Rules of Civil Procedure in 1938 and the Maryland Rules of Civil Procedure in 1984.

Defined terms: "Municipality" § 1–101
"State" § 1–101

5–102. COLLECTION OF DEVELOPMENT IMPACT FEES.

(A) APPLICATION OF SECTION.

THIS SECTION DOES NOT AFFECT ANY AGREEMENT EXISTING BEFORE OCTOBER 1, 1997, BETWEEN A COUNTY AND A MUNICIPALITY CONCERNING THE IMPOSITION OF DEVELOPMENT IMPACT FEES.

(B) ASSISTANCE WITH COLLECTION.

IF A COUNTY IMPOSES A DEVELOPMENT IMPACT FEE ON NEW RESIDENTIAL CONSTRUCTION TO FINANCE THE COSTS OF SCHOOL CONSTRUCTION, A MUNICIPALITY SHALL ASSIST THE COUNTY BY:

(1) COLLECTING AND REMITTING THE FEE FOR NEW RESIDENTIAL CONSTRUCTION IN THE MUNICIPALITY TO THE COUNTY; OR

(2) REQUIRING THE FEE TO BE PAID TO THE COUNTY IN ACCORDANCE WITH THE COUNTY DEVELOPMENT IMPACT FEE LAW OR ORDINANCE.

(C) NEXUS TO PROJECT.

THE APPLICATION OF ANY IMPACT FEE PAID UNDER SUBSECTION (B) OF THIS SECTION SHALL HAVE A RATIONAL NEXUS TO THE PROJECT FOR WHICH THE FEE IS ASSESSED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 8C(b).

In subsection (a) and the introductory language of subsection (b) of this section, the former references to the "collection" of a fee are deleted as implicit in the authority to impose a fee.

In subsection (a) of this section, the reference to an agreement existing "before October 1, 1997" is added for clarity because that is the date that former Art. 23A, § 8C(b) was enacted.

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

5–103. JUNKYARDS.

(A) "JUNKYARD" DEFINED.

IN THIS SECTION, "JUNKYARD" MEANS:

(1) A PUBLIC OR PRIVATE DUMP;

(2) AN AUTOMOBILE JUNKYARD;

(3) AN AUTOMOTIVE DISMANTLER OR RECYCLER FACILITY;

(4) A SCRAP METAL PROCESSING FACILITY;

(5) AN OUTDOOR PLACE WHERE OLD MOTOR VEHICLES ARE STORED IN QUANTITY OR DISMANTLED; OR

(6) A LOT ON WHICH REFUSE, TRASH, OR JUNK IS DEPOSITED.

(B) APPLICATION OF SECTION.

AN ORDINANCE ADOPTED UNDER THIS SECTION DOES NOT APPLY TO A BUSINESS LICENSED ON OR BEFORE JUNE 30, 2004, AS AN AUTOMOTIVE DISMANTLER AND RECYCLER OR A SCRAP PROCESSOR UNDER § 15–502 OF THE TRANSPORTATION ARTICLE.

(C) IN GENERAL.

BY ORDINANCE, THE LEGISLATIVE BODY OF A MUNICIPALITY MAY REGULATE THE LOCATION AND OPERATION OF JUNKYARDS IN THE MUNICIPALITY TO:

(1) PROTECT THE RESIDENTS OF THE MUNICIPALITY FROM UNPLEASANT AND UNWHOLESOME CONDITIONS AND DETERIORATING NEIGHBORHOODS;

(2) PRESERVE THE BEAUTY AND AESTHETIC VALUE OF RURAL OR RESIDENTIAL AREAS;

(3) SAFEGUARD THE PUBLIC HEALTH AND WELFARE;

(4) PROMOTE GOOD CIVIC DESIGN; AND

(5) PROMOTE THE HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, AND PROSPERITY OF THE COMMUNITY.

(D) LICENSE REQUIREMENT.

THE ORDINANCE MAY:

(1) REQUIRE THAT EACH PERSON WHO OPERATES OR MAINTAINS A JUNKYARD OBTAIN AN ANNUAL LICENSE; AND

(2) PROVIDE FOR A REASONABLE FEE FOR A LICENSE.

(E) HEARING REQUIRED.

(1) BEFORE ADOPTING AN ORDINANCE UNDER SUBSECTION (C) OF THIS SECTION, THE LEGISLATIVE BODY OF THE MUNICIPALITY SHALL HOLD A PUBLIC HEARING.

(2) AN ORDINANCE ADOPTED IN VIOLATION OF THIS SUBSECTION IS VOID.

(F) NOTICE.

THE LEGISLATIVE BODY OF THE MUNICIPALITY SHALL PUBLISH NOTICE OF THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY NOT LESS THAN FOUR TIMES, AT WEEKLY INTERVALS, WITHIN A PERIOD OF AT LEAST 30 DAYS BEFORE THE DATE OF THE HEARING.

(G) PENALTIES.

(1) A PERSON WHO VIOLATES AN ORDINANCE ADOPTED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT LESS THAN $25.

(2) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

(H) VIOLATION AS MUNICIPAL INFRACTION.

THE LEGISLATIVE BODY OF THE MUNICIPALITY MAY DECLARE A VIOLATION OF AN ORDINANCE ADOPTED UNDER THIS SECTION TO BE A MUNICIPAL INFRACTION UNDER TITLE 6, SUBTITLE 1 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 4.

In subsection (a) of this section, the term "junkyard" is revised as a definition to standardize the references to the types of property that are considered junkyards.

In subsection (b) of this section, the former reference to "the legislative body of a municipal corporation" is deleted as surplusage.

In the introductory language of subsection (c) of this section, the reference to the "operation" of junkyards is substituted for the former references to the "control" and "maintenance" of junkyards for brevity.

Also in the introductory language of subsection (c) of this section, the former reference to a municipality adopting an ordinance "for the licensing" of junkyards is deleted because provisions relating to licensing are in subsection (d)(1) of this section.

In subsection (d)(1) of this section, the reference to the municipality "requir[ing]" a license to operate or maintain a junkyard is substituted for the former reference to the "ordinance adopted under this section may prohibit" the operation or maintenance of a junkyard until a license is obtained to recognize the administrative nature of the function.

Also in subsection (d)(1) of this section, the former reference to a junkyard "within the limits of the municipal corporation" is deleted as surplusage.

In subsection (d)(2) of this section, the reference to the municipality "provid[ing] for a reasonable fee for a license" is substituted for the former reference to a license being obtained "at a reasonable fee specified in the ordinance" to clarify the authority of the municipality to establish a fee for the license.

In subsection (e)(1) of this section, the phrase "[b]efore adopting an ordinance under subsection (c) of this section" is added to clarify that this subsection creates an obligation on the municipality to hold a hearing.

Also in subsection (e)(1) of this section, the former references to a public hearing "actually" being held "as specified in the notice" are deleted as implicit in the requirements to hold a hearing and provide notice.

In subsection (e)(2) of this section, the reference to an ordinance "adopted in violation of this subsection [being] void" is substituted for the former statement that the ordinance "is not valid unless" for clarity.

In subsection (f) of this section, the former reference to a hearing "on the proposed ordinance" is deleted as surplusage.

In subsection (g)(1) of this section, the former reference to a violation "including the maintenance or operation of a junkyard, dump, or other facility without a license" is deleted as redundant of subsection (d)(1) of this section.

In subsection (h) of this section, the reference to a municipal infraction "under" Title 6, Subtitle 1 of this article is substituted for the former reference to a municipal infraction "that shall be enforced in accordance with the provisions of" Title 6, Subtitle 1 for brevity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the references to "old" motor vehicles and vehicles stored "in quantity" in subsection (a) of this section are vague. The General Assembly may wish to clarify what is meant by these terms.

The Local Government Article Review Committee also notes, for consideration by the General Assembly, that the fine identified in subsection (g) of this section specifies a minimum, but no maximum, penalty. In accordance with § 6–101(b) of this article, the maximum criminal penalty that may be imposed by a municipality is a term of 6 months imprisonment or a fine of $1,000 or both.

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

5–104. INTERGOVERNMENTAL AGREEMENTS FOR DISPOSAL OF GARBAGE.

A MUNICIPALITY MAY CONTRACT WITH A COUNTY TO DISPOSE OF GARBAGE OR OTHER MATTER COLLECTED IN THE MUNICIPALITY AT AN INCINERATOR OR PLANT OPERATED UNDER § 1–1304 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 14A(b).

The former reference to "enter[ing] into agreements" is deleted as included in the reference to "contract[ing]".

The former references to "refuse" and "trash" are deleted as included in the reference to "garbage".

The former reference to "[t]he mayor and city council, by whatever name known" is deleted as surplusage.

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

5–105. REGULATION OF NUDITY AND SEXUAL DISPLAYS.

(A) IN GENERAL.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY ADOPT AN ORDINANCE REGULATING THE LICENSING, LOCATION, AND OPERATION IN THE MUNICIPALITY OF A BUSINESS ESTABLISHMENT THAT ALLOWS ON ITS PREMISES ANY ACTIVITY INVOLVING NUDITY AND SEXUAL DISPLAYS LISTED UNDER ARTICLE 2B, § 10–405(C) THROUGH (F) OF THE CODE.

(B) PENALTIES.

(1) A PERSON WHO VIOLATES AN ORDINANCE ADOPTED UNDER SUBSECTION (A) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE OF NOT LESS THAN $500 OR BOTH.

(2) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 4A.

In subsection (a) of this section, the reference to the "operation" of a business establishment is substituted for the former references to the "control" and "maintenance" of a business establishment for brevity.

In subsection (b)(1) of this section, the reference to "imprisonment not exceeding 6 months or a fine of not less than $500 or both" is substituted for the former reference to "imprisonment not exceeding 6 months and a fine of not less than $500" for consistency with other penalty provisions in the Code.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the fine identified in subsection (b)(1) of this section specifies a minimum, but no maximum, penalty. In accordance with § 6–101(b) of this article, the maximum criminal penalty that may be imposed by a municipality is a term of 6 months imprisonment or a fine of $1,000 or both.

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

5–106. CONSERVATION AREAS.

(A) "CONSERVATION AREA" DEFINED.

IN THIS SECTION, "CONSERVATION AREA" MEANS AN AREA IN A MUNICIPALITY THAT THE LEGISLATIVE BODY OF THE MUNICIPALITY FINDS TO BE SO AFFECTED BY BLIGHT AND COMMUNITY OR PROPERTY DETERIORATION AS TO REQUIRE COMPREHENSIVE RENOVATION AND REHABILITATION.

(B) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO OR AFFECT:

(1) ANNE ARUNDEL COUNTY;

(2) CALVERT COUNTY;

(3) HOWARD COUNTY;

(4) KENT COUNTY;

(5) SOMERSET COUNTY;

(6) WICOMICO COUNTY; OR

(7) WORCESTER COUNTY.

(C) IN GENERAL.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY:

(1) ESTABLISH AND DEFINE THE BOUNDARIES OF A CONSERVATION AREA IN THE MUNICIPALITY; AND

(2) ESTABLISH AND VEST IN ANY UNIT OF THE MUNICIPALITY, FOR A PERIOD NOT EXCEEDING 5 YEARS, EXCLUSIVE JURISDICTION OR AUTHORITY TO ENFORCE IN THE CONSERVATION AREA THE LAWS, ORDINANCES, CODES, RULES, AND REGULATIONS THE LEGISLATIVE BODY OF THE MUNICIPALITY CONSIDERS EXPEDIENT.

(D) POWER OF MUNICIPAL POLICE NOT IMPEDED.

THIS SECTION DOES NOT AUTHORIZE A UNIT OF THE MUNICIPALITY ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION TO INTERFERE WITH THE POWERS OF A LAW ENFORCEMENT AUTHORITY IN A MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 7.

In subsection (b) of this section, the former reference to "Baltimore City" is deleted as unnecessary because this section applies to municipalities and there are no municipalities in Baltimore City.

In the introductory language of subsection (c) of this section, the former reference to "the governing authorities of the several counties, within those areas of the respective counties which lie without the boundaries of any such incorporated municipality therein" is deleted as unnecessary because conservation areas are defined in subsection (a) of this section as being within municipalities.

In subsections (c)(2) and (d) of this section, the references to a "unit" of the municipality are substituted for the former references to a "board, commission, department, bureau or agency" of the municipality for consistency with other revised articles of the Code. *See* General Revisor's Note to article.

In subsection (c)(2) of this section, the former reference to "portions or parts [of]" laws, ordinances, codes, rules, and regulations is deleted as surplusage.

Also in subsection (c)(2) of this section, the former reference to "creat[ing]" a unit of the municipality is deleted as included in the reference to "establish[ing]" a unit of the municipality.

Also in subsection (c)(2) of this section, the former reference to a "suitable" unit of the municipality is deleted because it is implicit that the governing body would be required to make a suitable choice for a unit to govern the laws of a conservation area.

In subsection (d) of this section, the reference to a "law enforcement authority" is substituted for the former reference to the "police commissioner, police department or police force" for brevity.

Also in subsection (d) of this section, the former references to "conflict", "impede", "obstruct", and "hinder" are deleted as included in the reference to "interfere with".

The Local Government Article Review Committee notes, for consideration by the General Assembly, that this section, which grants rehabilitation of blight powers, is unclear as to its applicability and appears to be superseded by laws on blight later enacted. This section appears to apply to both counties and municipalities based on a specific exclusion of certain counties, however, a conservation area is defined as an area found by a municipality to be "so affected by blight and community or property deterioration as to require comprehensive renovation and rehabilitation". Additionally, subsequent more detailed enactments, Art. III, § 61 of the Maryland Constitution and Art. 23A, § 2(b)(37), grant urban renewal authority to municipalities. The General Assembly may wish to consider repealing this section.

Defined term: "Municipality" § 1–101

SUBTITLE 2. ENUMERATION OF EXPRESS LAW MAKING POWERS.

5–201. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE DOES NOT AUTHORIZE THE LEGISLATIVE BODY OF A MUNICIPALITY TO ADOPT AN ORDINANCE THAT IS INCONSISTENT WITH OR CONFLICTS WITH ANY RULE OR REGULATION ADOPTED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION OR THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(a), as it related to the construction of this subtitle.

The former reference to the article not being "taken or construed to affect, change, modify, limit or restrict in any manner any of the corporate powers of the Mayor and City Council of Baltimore which it now has or which hereafter may be granted to it" is deleted as unnecessary because this subtitle does not apply to Baltimore City.

The former reference to any "ordinance … passed" by the Maryland–National Capital Park and Planning Commission or the

Washington Suburban Sanitary Commission is deleted because those entities do not have the authority to pass ordinances.

The former reference to a rule or regulation being "ordained" is deleted as included in the reference to a rule or regulation being "adopted".

Defined term: "Municipality" § 1–101

5–202. GENERAL AUTHORITY OF MUNICIPALITIES.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY ADOPT ORDINANCES TO:

(1) ASSURE THE GOOD GOVERNMENT OF THE MUNICIPALITY;

(2) PROTECT AND PRESERVE THE MUNICIPALITY'S RIGHTS, PROPERTY, AND PRIVILEGES;

(3) PRESERVE PEACE AND GOOD ORDER;

(4) SECURE PERSONS AND PROPERTY FROM DANGER AND DESTRUCTION; AND

(5) PROTECT THE HEALTH, COMFORT, AND CONVENIENCE OF THE RESIDENTS OF THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(a), as it related to the authority of a municipality to enact local laws relating to police powers.

In the introductory language of this section, the former reference to adopting ordinances "as they may deem necessary" is deleted as surplusage.

In item (5) of this section, the reference to "residents" of the municipality is substituted for the former reference to "citizens" of the municipality for consistency with the terminology used throughout this article. *See* General Revisor's Note to article.

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

5–203. GRANT OF EXPRESS POWERS.

(A) IN GENERAL.

IN ADDITION TO, BUT NOT IN SUBSTITUTION OF, THE POWERS THAT HAVE BEEN OR MAY BE GRANTED TO IT, THE LEGISLATIVE BODY OF A MUNICIPALITY MAY EXERCISE THE EXPRESS POWERS PROVIDED IN THIS SUBTITLE BY ADOPTING ORDINANCES.

(B) CONFLICTS.

EXCEPT AS PROVIDED IN ARTICLE XI–E OF THE MARYLAND CONSTITUTION, AN ORDINANCE ADOPTED BY THE LEGISLATIVE BODY OF A MUNICIPALITY MAY NOT CONFLICT WITH STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(a), as it related to the limitations on authority to adopt conflicting laws, and the introductory language of (b).

In subsection (a) of this section, the reference to the municipality "exercis[ing] the express powers provided in this subtitle by adopting ordinances" is substituted for the former reference to the municipality "hav[ing] the following express ordinance–making powers" for clarity.

In subsection (b) of this section, the phrase "[e]xcept as provided in Article XI–E of the Maryland Constitution" is added to clarify that there are certain instances where conflicting laws are constitutionally permissible. *See* Article XI–E, § 6 of the Maryland Constitution.

Also in subsection (b) of this section, the reference to "State law" is substituted for the former references to "the Constitution of Maryland" and "public general law" for brevity.

Also in subsection (b) of this section, the former reference to ordinances conflicting with public local law "except as provided in § 2B of this article" is deleted as unnecessary in light of § 4–111 of this article, which provides for the application of county legislation to municipalities.

Also in subsection (b) of this section, the former reference to "Baltimore City" is deleted as unnecessary in light of the definition of "municipality", which does not include Baltimore City.

Also in subsection (b) of this section, the former reference to the legislative body "by whatever name known" is deleted as surplusage.

Defined terms: "Municipality" § 1–101
"State" § 1–101

5–204. LEGISLATIVE AUTHORITY — GENERAL POWERS OF MUNICIPALITIES.

(A) CHANGE NAME OF MUNICIPALITY.

(1) A MUNICIPALITY MAY CHANGE ITS CORPORATE NAME.

(2) BEFORE AN ORDINANCE UNDER THIS SUBSECTION TAKES EFFECT, A MUNICIPALITY SHALL SUBMIT THE ORDINANCE TO THE QUALIFIED VOTERS OF THE MUNICIPALITY FOR THEIR APPROVAL AT A REGULAR OR SPECIAL MUNICIPAL ELECTION.

(3) A CHANGE OF NAME MAY NOT AFFECT ANY RIGHT, DUTY, OR OBLIGATION OF THE MUNICIPALITY.

(B) ESTABLISH SEAL.

A MUNICIPALITY MAY HAVE A SEAL.

(C) ACQUISITION AND TRANSFER OF REAL PROPERTY OF MUNICIPALITY.

A MUNICIPALITY MAY:

(1) ACQUIRE BY CONVEYANCE, PURCHASE, OR CONDEMNATION ANY REAL OR LEASEHOLD PROPERTY NEEDED FOR A PUBLIC PURPOSE;

(2) CONSTRUCT BUILDINGS ON MUNICIPAL PROPERTY FOR THE BENEFIT OF THE MUNICIPALITY; AND

(3) SELL, AT PUBLIC OR PRIVATE SALE AFTER 20 DAYS' PUBLIC NOTICE, AND CONVEY TO THE PURCHASER ANY REAL OR LEASEHOLD PROPERTY BELONGING TO THE MUNICIPALITY IF THE LEGISLATIVE BODY OF THE MUNICIPALITY DETERMINES THAT THE PROPERTY IS NO LONGER NEEDED FOR PUBLIC USE.

(D) FRANCHISES.

(1) A MUNICIPALITY MAY GRANT FRANCHISES IN ACCORDANCE WITH PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW.

(2) A MUNICIPALITY MAY GRANT A FRANCHISE FOR A CABLE TELEVISION SYSTEM AS PROVIDED IN § 1–708 OF THIS ARTICLE.

(3) FOR ANY FRANCHISE GRANTED UNDER THIS SUBSECTION, A MUNICIPALITY MAY:

(I) IMPOSE FRANCHISE FEES; AND

(II) ADOPT RATES, RULES, AND REGULATIONS.

(E) LICENSING AUTHORITY.

A MUNICIPALITY MAY EXERCISE THE LICENSING AUTHORITY GRANTED BY LAW.

(F) MARKETS.

A MUNICIPALITY MAY:

(1) ESTABLISH AND REGULATE MARKETS IN THE MUNICIPALITY; AND

(2) LICENSE THE SALE OF MERCHANDISE IN THE MARKETS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(8), (13), (18), (27), (32), and the first sentence of (24).

In subsection (a)(2) of this section, the phrase "[b]efore an ordinance under this subsection takes effect" is substituted for the former phrase "such ordinance shall first" for clarity.

In subsection (b) of this section, the former references to "mak[ing]" and "us[ing]" a seal are deleted as implicit in the reference to "hav[ing]" a seal. Similarly, the former reference to "from time to time, alter[ing]" the seal is deleted.

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

In subsection (c)(2) of this section, the reference to "construct[ing] buildings on municipal property" is substituted for the former reference to "erect[ing] buildings thereon" to state expressly that which only was implied in the former law, *i.e.*, that buildings and signs erected by the municipality can be built on property acquired by the municipality.

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

In subsection (d)(1) of this section, the former reference to "existing" laws is deleted as surplusage. The Local Government Article Review Committee interprets the reference to mean laws applicable at the time of the grant of the franchise.

In subsection (d)(2) of this section, the reference to a municipality granting a franchise "for a cable television system as provided in § 1–708 of this article" is substituted for the former reference to granting "one or more exclusive or nonexclusive franchises for a community antenna system or other cable television system that utilizes any public right–of–way, highway, street, road, lane, alley, or bridge" for brevity.

In subsection (e) of this section, the reference to authority granted "by law" is substituted for the former reference to authority granted "in the Business Regulations Article and other provisions of law" for brevity.

In subsection (f)(1) of this section, the reference to establishing markets "in the municipality" is added for clarity.

In subsection (f)(2) of this section, the reference to "merchandise" is substituted for the former reference to "marketable commodities" for brevity.

Defined term: "Municipality" § 1–101

5–205. LEGISLATIVE AUTHORITY — GENERAL OPERATIONS OF MUNICIPALITIES.

(A) FINANCIAL OPERATIONS.

(1) A MUNICIPALITY MAY PROVIDE FOR THE CONTROL AND MANAGEMENT OF ITS FINANCES.

(2) THE MUNICIPALITY MAY:

(I) DESIGNATE THE BANKS OR TRUST COMPANIES OF THE STATE IN WHICH THE MUNICIPALITY SHALL DEPOSIT ALL MONEY BELONGING TO THE MUNICIPALITY; AND

(II) PROVIDE FOR THE APPOINTMENT OF AN AUDITOR OR ACCOUNTANT TO AUDIT THE BOOKS AND ACCOUNTS OF MUNICIPAL OFFICERS COLLECTING, HANDLING, OR DISBURSING MONEY BELONGING TO THE MUNICIPALITY.

(B) EXPENDITURE FOR SAFETY, HEALTH, AND GENERAL WELFARE — IN GENERAL.

(1) A MUNICIPALITY MAY SPEND MONEY FOR ANY PUBLIC PURPOSE AND TO AFFECT THE SAFETY, HEALTH, AND GENERAL WELFARE OF THE MUNICIPALITY AND ITS OCCUPANTS.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A MUNICIPALITY MAY NOT SPEND MONEY UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE MONEY WAS NOT APPROPRIATED AT THE TIME OF THE ANNUAL LEVY.

(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A MUNICIPALITY MAY SPEND MONEY ONLY FOR THE PURPOSE FOR WHICH THE MONEY WAS APPROPRIATED.

(4) A MUNICIPALITY MAY SPEND MONEY FOR A PURPOSE DIFFERENT FROM THE PURPOSE FOR WHICH THE MONEY WAS APPROPRIATED OR SPEND MONEY NOT APPROPRIATED AT THE TIME OF THE ANNUAL LEVY IF APPROVED BY A TWO–THIRDS VOTE OF ALL THE INDIVIDUALS ELECTED TO THE LEGISLATIVE BODY.

(C) BUSINESS OPERATIONS.

A MUNICIPALITY MAY PROVIDE FOR:

(1) THE PURCHASE OF MATERIALS, SUPPLIES, AND EQUIPMENT THROUGH THE DEPARTMENT OF GENERAL SERVICES;

(2) MUNICIPAL ADVERTISING;

(3) PRINTING AND PUBLISHING STATEMENTS OF ITS RECEIPTS AND EXPENDITURES; AND

(4) CODIFYING AND PUBLISHING LAWS, ORDINANCES, RESOLUTIONS, AND REGULATIONS.

(D) COLLECTIONS.

(1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS ARTICLE, THE TAX – GENERAL ARTICLE, AND THE TAX – PROPERTY ARTICLE, A MUNICIPALITY MAY ESTABLISH AND COLLECT REASONABLE FEES AND CHARGES:

(I) FOR FRANCHISES, LICENSES, OR PERMITS GRANTED BY THE MUNICIPALITY; OR

(II) ASSOCIATED WITH THE EXERCISE OF A GOVERNMENTAL OR PROPRIETARY FUNCTION EXERCISED BY A MUNICIPALITY.

(2) A MUNICIPALITY MAY PROVIDE THAT ANY VALID CHARGE, TAX, OR ASSESSMENT MADE AGAINST REAL PROPERTY IN THE MUNICIPALITY IS A LIEN ON THE PROPERTY TO BE COLLECTED IN THE SAME MANNER AS MUNICIPAL TAXES.

(E) AGREEMENTS WITH OTHER MUNICIPALITIES.

A MUNICIPALITY MAY ENTER INTO AN AGREEMENT WITH OTHER MUNICIPALITIES FOR PURPOSES INCLUDING:

(1) THE JOINT ADMINISTRATION OF THE MUNICIPALITIES;

(2) THE COOPERATIVE PROCUREMENT OF GOODS AND SERVICES, INCLUDING CONSTRUCTION SERVICES;

(3) THE PROVISION OF MUNICIPAL SERVICES; AND

(4) THE JOINT FUNDING AND MANAGEMENT OF ANY PROJECT THAT IS CENTRALLY LOCATED TO THE MUNICIPALITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(1), (2), (3), (11), (17), (24A), (33), and (38).

In subsection (a)(1) of this section, the former reference to the "general" control and management of finances is deleted as surplusage.

In subsection (c)(1) of this section, the former reference to the "Purchasing Bureau" of the Department of General Services is deleted as obsolete.

Also in subsection (c)(1) of this section, the former reference to the purchase through the Department of General Services "whenever desirable" is deleted as surplusage.

In subsection (c)(4) of this section, the former reference to laws "adopted by or affecting the municipality" is deleted as surplusage.

In subsection (d)(1)(i) of this section, the former reference to franchises, licenses, or permits "authorized by law" to be granted is deleted as surplusage. Similarly, in subsection (d)(1)(ii) of this section, the former reference to functions "authorized by law" to be exercised is deleted.

In the introductory language of subsection (e) of this section, the former reference to entering into an agreement with "one or more" other municipalities is deleted as surplusage.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the requirement in subsection (b)(4) of this section for a two–thirds vote of "all the individuals elected to the legislative body" of a municipality to spend money for a different purpose is unclear in the instance of a vacancy in the legislative body. Is the intent of the section to require two–thirds of the number of total elected positions or two–thirds of the number of positions currently filled? The General Assembly may wish to clarify this provision.

Defined terms: "Municipality" § 1–101
"State" § 1–101

5–206. LEGISLATIVE AUTHORITY — OFFICERS AND EMPLOYEES.

(A) MERIT SYSTEM.

(1) A MUNICIPALITY MAY ESTABLISH A MERIT SYSTEM IN CONNECTION WITH THE APPOINTMENT OF ANY MUNICIPAL OFFICIAL OR EMPLOYEE NOT ELECTED OR APPOINTED UNDER THE MARYLAND CONSTITUTION, PUBLIC GENERAL LAW, OR PUBLIC LOCAL LAW.

(2) IN ACCORDANCE WITH § 4–303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, A MUNICIPALITY MAY REQUEST AND USE THE FACILITIES OF THE DEPARTMENT OF BUDGET AND MANAGEMENT IN THE ADMINISTRATION OF A MERIT SYSTEM ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(B) COMPENSATION.

A MUNICIPALITY MAY SET THE COMPENSATION OF MUNICIPAL OFFICERS AND EMPLOYEES.

(C) PENSION AND GROUP INSURANCE.

A MUNICIPALITY MAY PROVIDE FOR:

(1) A RETIREMENT OR PENSION SYSTEM OR A GROUP INSURANCE PLAN FOR ITS OFFICERS AND EMPLOYEES; OR

(2) INCLUDING ITS OFFICERS AND EMPLOYEES IN ANY RETIREMENT OR PENSION SYSTEM OPERATED BY OR IN CONJUNCTION WITH THE STATE, ON THE TERMS AND CONDITIONS SET FORTH IN STATE LAW.

(D) REMOVAL OF OFFICERS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MUNICIPALITY MAY PROVIDE FOR THE REMOVAL OR TEMPORARY SUSPENSION FROM OFFICE OF AN APPOINTED MUNICIPAL OFFICER FOR:

(I) INEFFICIENCY;

(II) MALFEASANCE;

(III) MISFEASANCE;

(IV) NONFEASANCE;

(V) MISCONDUCT IN OFFICE; OR

(VI) INSUBORDINATION.

(2) BEFORE REMOVING OR SUSPENDING ANY OFFICER, THE MUNICIPALITY SHALL NOTIFY THE OFFICER AND CONDUCT A HEARING.

(3) A MUNICIPALITY MAY PROVIDE FOR FILLING THE VACANCY CAUSED BY THE REMOVAL OR SUSPENSION.

(E) SPECIAL ELECTIONS.

SUBJECT TO ITS MUNICIPAL CHARTER, A MUNICIPALITY MAY PROVIDE FOR SPECIAL ELECTIONS FOR MUNICIPAL PURPOSES AT TIMES AND PLACES DETERMINED BY THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(19), (21), (25), (26), and (29).

In subsection (a)(2) of this section, the reference to "us[ing]" facilities is substituted for the former reference to "avail[ing] themselves of" facilities for brevity.

Also in subsection (a)(2) of this section, the former reference to the use of facilities "without unnecessary expense" is deleted as surplusage.

In subsection (b) of this section, the former reference to "salary" is deleted as included in the reference to "compensation".

In the introductory language of subsection (d)(1) of this section, the phrase "[s]ubject to paragraph (2) of this subsection" is added for clarity.

Also in the introductory language of subsection (d)(1) of this section, the reference to "an appointed municipal officer" is substituted for the former reference to "any person who has been appointed to any municipal office" for brevity.

Also in the introductory language of subsection (d)(1) of this section, the former phrase "adjudged to have been guilty" is deleted as implicit in the requirement that a municipality hold a hearing before removing or suspending an officer.

In subsection (d)(2) of this section, the phrase "[b]efore removing or suspending any officer, the municipality shall notify the officer and conduct a hearing" is substituted for the former phrase "after due notice and hearing" for clarity.

In subsection (e) of this section, the reference to a special election at the times and places determined "by the municipality" is added for clarity.

Defined terms: "Municipality" § 1–101
"State" § 1–101

5–207. LEGISLATIVE AUTHORITY — PUBLIC SAFETY.

(A) ESTABLISHMENT OF PUBLIC SAFETY UNITS.

A MUNICIPALITY MAY ESTABLISH AND MAINTAIN:

(1) A FIRE DEPARTMENT; AND

(2) A POLICE FORCE.

(B) REGULATION OF HAZARDOUS AND EXPLOSIVE MATERIALS.

A MUNICIPALITY MAY:

(1) PROVIDE FOR THE REMOVAL OF FIRE HAZARDS;

(2) CONTROL THE USE AND HANDLING OF DANGEROUS AND EXPLOSIVE MATERIALS; AND

(3) PREVENT THE DISCHARGE OF FIREARMS OR OTHER EXPLOSIVE INSTRUMENTS.

(C) MISCELLANEOUS.

A MUNICIPALITY MAY:

(1) PAY REWARDS FOR INFORMATION RELATING TO CRIME COMMITTED IN THE MUNICIPALITY;

(2) PROHIBIT VAGRANCY, VICE, GAMBLING, AND HOUSES OF PROSTITUTION IN THE MUNICIPALITY;

(3) ENFORCE ALL ORDINANCES RELATING TO DISORDERLY CONDUCT AND NUISANCES EQUALLY:

(I) WITHIN THE MUNICIPALITY; AND

(II) UP TO ONE–HALF MILE OUTSIDE THE MUNICIPAL LIMITS, EXCEPT WHERE THERE IS A CONFLICT WITH THE POWERS OF ANOTHER MUNICIPALITY; AND

(4) PROHIBIT MINORS FROM BEING ON THE STREETS AND IN PUBLIC PLACES AT CERTAIN HOURS OF THE NIGHT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(9), (10), (12), (22), (23), and (34).

In subsection (a)(2) of this section, the former reference to an "adequate" police force is deleted as implicit in the requirement to establish a police force.

In subsection (c)(1) of this section, the former reference to "offer[ing]" rewards is deleted as implicit in the reference to "pay[ing]" rewards.

In subsection (c)(2) of this section, the reference to houses of "prostitution" is substituted for the former archaic reference to houses of "ill fame".

Also in subsection (c)(2) of this section, the reference to "prohibit[ing]" certain activities is substituted for the former reference to "punish[ing] and suppress[ing]" certain activities for brevity.

Also in subsection (c)(2) of this section, the former reference to "the owning or keeping" of houses of prostitution is deleted as surplusage.

In subsection (c)(3) of this section, the former reference to the "suppression of" nuisances is deleted as surplusage.

In subsection (c)(4) of this section, the reference to "minors" is substituted for the former reference to "the youth" for clarity.

Also in subsection (c)(4) of this section, the reference to "certain" hours is substituted for the former reference to "unreasonable" hours for clarity.

Defined term: "Municipality" § 1–101

5–208. LEGISLATIVE AUTHORITY — PORT WARDENS.

(A) ESTABLISH BOARD OF PORT WARDENS.

A MUNICIPALITY MAY PROVIDE FOR THE CREATION, APPOINTMENT, DUTIES, AND POWERS OF A BOARD OF PORT WARDENS TO EXERCISE JURISDICTION IN THE MUNICIPALITY.

(B) SCOPE OF AUTHORITY.

(1) A BOARD OF PORT WARDENS MAY REGULATE THE PLACEMENT OR CONSTRUCTION OF STRUCTURES OR OTHER BARRIERS IN OR ON THE WATERS OF THE MUNICIPALITY.

(2) THE BOARD MAY:

(I) ISSUE LICENSES TO BUILD WHARVES OR PIERS; AND

(II) ISSUE PERMITS FOR MOORING PILES, FLOATING WHARVES, BUOYS, AND ANCHORS.

(3) WHEN ISSUING LICENSES OR PERMITS UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD SHALL CONSIDER:

(I) THE PRESENT AND PROPOSED USES OF THE WATERS;

(II) THE EFFECT OF THE PRESENT AND PROPOSED USES OF THE WATERS ON MARINE LIFE, WILDLIFE, CONSERVATION, WATER POLLUTION, EROSION, AND NAVIGATIONAL HAZARDS;

(III) THE EFFECT OF THE PROPOSED USE OF THE WATERS ON CONGESTION IN THE WATERS;

(IV) THE EFFECT OF THE PROPOSED USE OF THE WATERS ON OTHER RIPARIAN PROPERTY OWNERS; AND

(V) THE PRESENT AND PROJECTED NEEDS FOR ANY PROPOSED COMMERCIAL OR INDUSTRIAL USE IN OR ON THE WATERS OF THE MUNICIPALITY.

(4) THE BOARD SHALL ENSURE THAT THE IMPROVEMENTS DO NOT RENDER NAVIGATION TOO CLOSE AND CONFINED.

(5) THE BOARD MAY REGULATE THE MATERIALS FOR AND CONSTRUCTION OF THE IMPROVEMENTS.

(6) THIS SUBSECTION DOES NOT AFFECT THE ZONING POWER OF THE MUNICIPALITY.

(C) WHARF AND PIER BUILDING RESTRICTIONS; PENALTIES.

(1) UNLESS A PERSON HAS BEEN GRANTED A LICENSE OR PERMIT FROM THE BOARD OF PORT WARDENS, A PERSON MAY NOT:

(I) BUILD A WHARF OR PIER;

(II) MOVE ANY EARTH OR OTHER MATERIAL FOR THE PURPOSE OF BUILDING A WHARF OR PIER; OR

(III) PLACE OR CONSTRUCT MOORING PILES, FLOATING WHARVES, BUOYS, OR ANCHORS.

(2) A PERSON MAY NOT BUILD A WHARF OR PIER:

(I) A GREATER DISTANCE INTO THE WATER THAN APPROVED BY THE BOARD; OR

(II) IN A DIFFERENT FORM OR OF DIFFERENT MATERIALS THAN APPROVED BY THE BOARD.

(3) A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A FINE SET BY THE LEGISLATIVE BODY OF THE MUNICIPALITY.

(D) APPEALS.

A PERSON AGGRIEVED BY A DECISION OF A BOARD OF PORT WARDENS MAY APPEAL THE DECISION:

(1) TO THE LEGISLATIVE BODY OF THE MUNICIPALITY; OR

(2) IF AUTHORIZED BY ORDINANCE, TO THE CIRCUIT COURT OF THE APPROPRIATE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(23A).

In subsection (b) of this section, the former phrase "including but not limited to" is deleted in light of the revised structure of the section.

In subsection (b)(1) of this section, the former reference to the "erection" of structures is deleted as included in the reference to the "construction" of structures.

In subsection (b)(2)(i) of this section, the former reference to "creat[ing]" wharves or piers is deleted as included in the reference to "build[ing]" wharves or piers.

In subsection (b)(3) of this section, the references to use "of the waters" are added to state expressly that which was implied in the former law, *i.e.*, that the issues listed should be considered by the board of port wardens when deliberating on a request for a license or permit for an improvement.

In the introductory language of subsection (b)(3) of this section, the phrase "shall consider" is substituted for the former phrase "taking into account" for clarity.

In subsection (b)(3)(v) of this section, the reference to commercial or industrial use "in or on the waters of the municipality" is added for clarity.

In subsection (b)(4) of this section, the former reference to improvements "in the waters within the municipality" is deleted as unnecessary because the improvements addressed in this section are all in the waters in the municipality.

In subsection (b)(6) of this section, the phrase "does not" is substituted for the former phrase "in no way intends to" for clarity and brevity.

Also in subsection (b)(6) of this section, the former reference to "conflict[ing]" with the zoning power is deleted as included in the reference to "affect[ing]" the zoning power.

In subsection (c)(1)(ii) of this section, the reference to "mov[ing]" earth is substituted for the former reference to "carry[ing] out" earth for clarity.

In the introductory language of subsection (d) of this section, the reference to "[a] person aggrieved by a decision of a board of port wardens" is substituted for the former reference to "[i]n all differences that arise between any aggrieved party and the port wardens of that municipal corporation concerning the discharge of the duties of the port wardens" for brevity.

In subsection (d)(2) of this section, the former reference to being authorized "by the municipal corporation" by ordinance is deleted as surplusage.

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

5–209. LEGISLATIVE AUTHORITY — HEALTH AND WELFARE.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT AFFECT ANY PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW RELATING TO HEALTH OR THE POWERS AND DUTIES OF:

(1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE; OR

(2) A COUNTY BOARD OF HEALTH.

(B) ESTABLISH BOARD OF HEALTH.

A MUNICIPALITY MAY APPOINT A BOARD OF HEALTH AND ESTABLISH ITS POWERS AND DUTIES.

(C) QUARANTINE AND HEALTH HAZARDS.

A MUNICIPALITY MAY:

(1) ESTABLISH QUARANTINE REGULATIONS;

(2) AUTHORIZE THE REMOVAL OR CONFINEMENT OF INDIVIDUALS HAVING INFECTIOUS OR CONTAGIOUS DISEASES;

(3) PREVENT AND REMOVE NUISANCES;

(4) PREVENT THE INTRODUCTION OF CONTAGIOUS DISEASES INTO THE MUNICIPALITY; AND

(5) REGULATE ANY PLACE WHERE NOXIOUS THINGS ARE MANUFACTURED, OFFENSIVE TRADES ARE CONDUCTED, OR THAT MAY CAUSE UNSANITARY CONDITIONS OR CONDITIONS DETRIMENTAL TO HEALTH.

(D) TRASH DISPOSAL.

A MUNICIPALITY MAY:

(1) REGULATE OR PROHIBIT THE THROWING OR DEPOSITING OF DIRT, GARBAGE, TRASH, OR LIQUIDS IN A PUBLIC PLACE; AND

(2) PROVIDE FOR THE PROPER DISPOSAL OF THESE MATERIALS.

(E) CEMETERIES.

A MUNICIPALITY MAY:

(1) REGULATE THE INTERMENT OF BODIES; AND

(2) CONTROL THE LOCATION AND ESTABLISHMENT OF CEMETERIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(6), (14), and (15).

In the introductory language of subsection (a) of this section, the former phrase "in any manner" is deleted as surplusage.

In subsection (b) of this section, the reference to "establish[ing]" powers and duties is substituted for the former reference to "defin[ing] and regulat[ing]" powers and duties for brevity and consistency with other similar provisions of this article.

In subsection (c)(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 have an infectious or contagious disease.

In subsection (c)(5) of this section, the former references to regulating places manufacturing "soap [and] fertilizer" and "slaughterhouses [and] packing houses" are deleted as included in the reference to "any place where noxious things are manufactured [and] offensive trades are conducted".

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

5–210. LEGISLATIVE AUTHORITY — ESTABLISHMENT OF SOCIAL SERVICES.

A MUNICIPALITY MAY PROVIDE FOR, MAINTAIN, AND OPERATE COMMUNITY AND SOCIAL SERVICES TO PRESERVE AND PROMOTE THE HEALTH, RECREATION, AND WELFARE OF THE RESIDENTS OF THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(7).

The reference to "residents" is substituted for the former reference to "inhabitants" for consistency with the terminology used throughout this article.

The former reference to the "enlightenment" of residents is deleted as included in the reference to the "welfare" of residents.

The former reference to actions taken "as the legislative body may determine" is deleted as implicit in the grant of authority to the municipality.

Defined term: "Municipality" § 1–101

5–211. LEGISLATIVE AUTHORITY — BUILDING REGULATIONS.

(A) ESTABLISH BUILDING CODES.

A MUNICIPALITY MAY ADOPT REGULATIONS REGARDING THE ERECTION OF BUILDINGS AND SIGNS IN THE MUNICIPALITY, INCLUDING:

(1) A BUILDING CODE; AND

(2) REQUIREMENTS FOR BUILDING PERMITS.

(B) INSPECTION AND REPAIRS.

A MUNICIPALITY MAY PROVIDE FOR THE INSPECTION OF AND REQUIRE REPAIRS TO THE FOLLOWING ON PRIVATE PROPERTY:

(1) DRAINAGE AND SEWAGE SYSTEMS;

(2) ELECTRIC LINES AND WIRES;

(3) GAS PIPES;

(4) PLUMBING APPARATUS; AND

(5) WATER PIPES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(5) and (16).

In the introductory language of subsection (a) of this section, the former reference to "reasonable" regulations is deleted as implicit in the grant of authority to adopt regulations.

Defined term: "Municipality" § 1–101

5–212. LEGISLATIVE AUTHORITY — STATE POLICY FOR REGULATION OF DEVELOPMENT.

(A) LOCAL PLANNING AND ZONING CONTROLS.

IT IS THE POLICY OF THE STATE THAT:

(1) THE ORDERLY DEVELOPMENT AND USE OF LAND AND STRUCTURES REQUIRES COMPREHENSIVE REGULATION THROUGH IMPLEMENTATION OF PLANNING AND ZONING CONTROLS; AND

(2) PLANNING AND ZONING CONTROLS SHALL BE IMPLEMENTED BY LOCAL GOVERNMENT.

(B) DISPLACEMENT OF COMPETITION.

(1) TO ACHIEVE THE PUBLIC PURPOSES OF THE POLICY SET FORTH UNDER SUBSECTION (A) OF THIS SECTION, THE GENERAL ASSEMBLY RECOGNIZES THAT LOCAL GOVERNMENT ACTION WILL DISPLACE OR LIMIT ECONOMIC COMPETITION BY OWNERS AND USERS OF PROPERTY.

(2) IT IS THE POLICY OF THE STATE THAT COMPETITION AND ENTERPRISE SHALL BE DISPLACED OR LIMITED FOR THE ATTAINMENT OF THE PURPOSES OF THE STATE POLICY FOR IMPLEMENTING PLANNING AND ZONING CONTROLS AS SET FORTH IN THIS ARTICLE AND ELSEWHERE IN PUBLIC GENERAL LAW AND PUBLIC LOCAL LAW.

(C) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT:

(1) GRANT TO A MUNICIPALITY POWERS IN ANY SUBSTANTIVE AREA NOT OTHERWISE GRANTED TO THE MUNICIPALITY BY OTHER PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW;

(2) RESTRICT A MUNICIPALITY FROM EXERCISING ANY POWER OTHERWISE GRANTED TO THE MUNICIPALITY;

(3) AUTHORIZE A MUNICIPALITY OR ITS OFFICERS TO ENGAGE IN ANY ACTIVITY THAT IS OTHERWISE BEYOND THE POWER OF THE MUNICIPALITY OR ITS OFFICERS; OR

(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF ANY STATE UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(36).

In subsection (b)(1) of this section, the reference to "the policy set forth under subsection (a) of this section" is substituted for the former reference to "this regulatory scheme" for clarity.

In subsection (b)(2) of this section, the former reference to the policy of "the General Assembly" is deleted as included in the reference to the policy of "the State".

In the introductory language of subsection (c) of this section, the phrase "[t]his section does not" is substituted for the former phrase "[t]he powers granted to the municipality pursuant to this [section] shall not be construed" for clarity and brevity.

In subsection (c)(2) of this section, the reference to powers "otherwise granted" to the municipality is substituted for the former reference to powers granted "by other public general or public local law or otherwise" for brevity. Similarly, in subsection (c)(3) of this section, the reference to activity that is "otherwise" beyond the power of the municipality is

substituted for the former reference to activity that is beyond the power of the municipality "under other public general law, public local law, or otherwise".

In subsection (c)(4) of this section, the reference to a State "unit" is substituted for the former reference to a State "department or agency" for consistency with other similar provisions of the Code. *See* General Revisor's Note to article.

Also in subsection (c)(4) of this section, the former reference to the authority of any State unit "under any public general law" is deleted as surplusage.

Defined terms: "Municipality" § 1–101
"State" § 1–101

5–213. LEGISLATIVE AUTHORITY — ZONING REGULATIONS.

A MUNICIPALITY MAY ADOPT ZONING REGULATIONS, SUBJECT TO ANY RIGHT OF REFERENDUM OF THE VOTERS AT A REGULAR OR SPECIAL ELECTION AS MAY BE PROVIDED BY THE MUNICIPAL CHARTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(30).

The reference to "any right of" referendum "as may be provided by the municipal charter" is added for clarity.

The former reference to "reasonable" regulations is deleted as implicit in the authority to adopt regulations.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that this section does not provide a grant of authority to a municipality to allow the municipality to exceed the powers granted to municipalities under the Land Use Article. *See* 75 Op. Att. Gen. 360 (1990).

Defined term: "Municipality" § 1–101

5–214. LEGISLATIVE AUTHORITY — COMMERCIAL AND INDUSTRIAL DEVELOPMENT.

(A) FUNDING; RESTRICTIONS.

SECTION 18–301 OF THIS ARTICLE APPLIES TO THE USE OF FEDERAL OR STATE FINANCIAL ASSISTANCE FOR COMMERCIAL OR INDUSTRIAL REDEVELOPMENT PROJECTS.

(B) COMMERCIAL DISTRICT MANAGEMENT AUTHORITY.

(1) IN THIS SUBSECTION, "AUTHORITY" MEANS A COMMERCIAL DISTRICT MANAGEMENT AUTHORITY.

(2) A MUNICIPALITY MAY ESTABLISH AN AUTHORITY FOR ANY COMMERCIAL DISTRICT IN THE MUNICIPALITY.

(3) FOR EACH AUTHORITY ESTABLISHED, A MUNICIPALITY SHALL:

(I) SPECIFY THE MEMBERSHIP, ORGANIZATION, JURISDICTION, AND GEOGRAPHICAL LIMITS OF THE AUTHORITY;

(II) PROVIDE FINANCING FOR THE AUTHORITY THROUGH FEES THAT MAY BE CHARGED TO, OR TAXES THAT MAY BE IMPOSED AGAINST, ANY BUSINESS SUBJECT TO THE AUTHORITY'S JURISDICTION; AND

(III) SPECIFY THE PURPOSES OF THE AUTHORITY, INCLUDING:

1. PROMOTION;

2. MARKETING; OR

3. THE PROVISION OF SECURITY, MAINTENANCE, OR AMENITIES IN THE DISTRICT.

(4) AN AUTHORITY MAY NOT:

(I) EXERCISE THE POWER OF EMINENT DOMAIN;

(II) PURCHASE, SELL, CONSTRUCT, OR LEASE, AS LESSOR, OFFICE OR RETAIL SPACE; OR

(III) EXCEPT AS OTHERWISE AUTHORIZED BY LAW, ENGAGE IN COMPETITION WITH THE PRIVATE SECTOR.

(5) ANY FEE OR TAX IMPOSED UNDER THIS SUBSECTION SHALL BE USED ONLY FOR THE PURPOSES STATED IN THIS SUBSECTION AND MAY NOT REVERT TO THE GENERAL FUND OF THE MUNICIPALITY.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a cross–reference to § 18–301 of this article.

Subsection (b) of this section is new language derived without substantive change from former Art. 23A, § 2(b)(35).

In subsection (b) of this section, the term "municipality" is substituted for the former references to "its geographical limits" and "legislative body" for clarity and consistency with the terminology used throughout this subtitle.

In subsection (b)(1) of this section, the definition of "authority" is added to avoid repetition of the full reference to a "commercial district management authority".

In subsection (b)(2) of this section, the former phrase "[i]n accordance with the provisions of this paragraph" is deleted as surplusage. Similarly, in the introductory language of subsection (b)(4) of this section, the former reference to "[a]n authority established pursuant to this paragraph" is deleted.

In subsection (b)(3)(ii) of this section, the former reference to the legislative body providing financing "as it deems appropriate" is deleted as surplusage.

In subsection (b)(4)(ii) of this section, the reference to leasing as "lessor" is substituted for the former reference to leasing "as a landlord" for consistency with other similar provisions of the Code.

Defined terms: "Municipality" § 1–101
"State" § 1–101

5–215. LEGISLATIVE AUTHORITY — URBAN RENEWAL AUTHORITY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO A MUNICIPALITY THAT HAS URBAN RENEWAL AUTHORITY GRANTED UNDER ARTICLE III, § 61 OF THE MARYLAND CONSTITUTION.

(B) ACQUISITION OF PROPERTY BY MUNICIPALITY.

SUBJECT TO SUBSECTION (E) OF THIS SECTION, A MUNICIPALITY MAY:

(1) ACQUIRE PROPERTY OF ANY KIND IN THE MUNICIPALITY, INCLUDING ANY RIGHT, INTEREST, FRANCHISE, EASEMENT, OR PRIVILEGE ATTACHED TO THE PROPERTY, BY PURCHASE, LEASE, GIFT, CONDEMNATION, OR ANY OTHER LEGAL MEANS FOR DEVELOPMENT OR REDEVELOPMENT OF THE PROPERTY, INCLUDING COMPREHENSIVE RENOVATION OR REHABILITATION; AND

(2) SELL, LEASE, CONVEY, TRANSFER, OR OTHERWISE DISPOSE OF ANY PROPERTY ACQUIRED UNDER ITEM (1) OF THIS SUBSECTION, TO ANY PERSON OR PUBLIC OR QUASI–PUBLIC ENTITY:

(I) WHETHER OR NOT THE PROPERTY HAS BEEN DEVELOPED, REDEVELOPED, ALTERED, OR IMPROVED; AND

(II) REGARDLESS OF HOW THE PROPERTY WAS ACQUIRED.

(C) COMPENSATION FOR PROPERTY ACQUIRED BY EMINENT DOMAIN.

(1) A MUNICIPALITY SHALL PROVIDE JUST COMPENSATION TO THE OWNER OF ANY PROPERTY ACQUIRED BY THE MUNICIPALITY UNDER SUBSECTION (B) OF THIS SECTION IF THE PROPERTY IS TAKEN BY EMINENT DOMAIN.

(2) THE AMOUNT OF COMPENSATION PAID TO AN OWNER UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DETERMINED BY:

(I) AN AGREEMENT BY THE PARTIES TO THE TRANSACTION; OR

(II) A JURY AWARD.

(3) A MUNICIPALITY SHALL PAY THE AMOUNT OF COMPENSATION DETERMINED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE OWNER BEFORE TAKING THE PROPERTY.

(D) PROPERTY NEEDED OR TAKEN FOR PUBLIC USE OR BENEFIT.

ANY PROPERTY NEEDED, OR TAKEN BY EMINENT DOMAIN, BY A MUNICIPALITY FOR THE PURPOSES IN SUBSECTION (B) OF THIS SECTION OR IN CONNECTION WITH THE EXERCISE OF ANY POWER OF A MUNICIPALITY UNDER

THIS SECTION IS CONSIDERED TO BE NEEDED OR TAKEN FOR A PUBLIC USE OR BENEFIT.

(E) DETERMINATION OF CONDITION OF PROPERTY TO BE ACQUIRED.

BEFORE ACQUIRING A SINGLE–FAMILY OR MULTIFAMILY DWELLING UNIT OR OTHER STRUCTURE UNDER THIS SECTION, A MUNICIPALITY SHALL FIND THAT:

(1) THE DWELLING UNIT OR STRUCTURE HAS DETERIORATED TO AN EXTENT THAT CONSTITUTES A SERIOUS AND GROWING MENACE TO THE PUBLIC HEALTH, SAFETY, AND WELFARE;

(2) THE DWELLING UNIT OR STRUCTURE IS LIKELY TO CONTINUE TO DETERIORATE;

(3) THE CONTINUED DETERIORATION OF THE DWELLING UNIT OR STRUCTURE WILL CONTRIBUTE TO THE BLIGHTING OR DETERIORATION OF THE AREA IMMEDIATELY SURROUNDING THE DWELLING UNIT OR STRUCTURE; AND

(4) THE OWNER OF THE DWELLING UNIT OR STRUCTURE HAS NOT CORRECTED THE DETERIORATION.

(F) ADOPTION OF ORDINANCE TO ACQUIRE PROPERTY.

THE LEGISLATIVE BODY OF A MUNICIPALITY SHALL ADOPT AN ORDINANCE FOR EACH ACQUISITION OF PROPERTY MADE UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(37).

In this section, the former references to "land" are deleted as included in the references to "property".

In subsection (a) of this section, the former phrase "[i]n addition to the authority provided elsewhere in this subsection" is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to "the boundary lines of" the municipality is deleted as surplusage.

In subsection (b)(2) of this section, the former references to a "private" entity, "corporation", "partnership", and "association" are deleted as included in the reference to a "person".

Also in subsection (b)(2) of this section, the former reference to a "legal" entity is deleted as surplusage.

In subsection (c)(1) of this section, the reference to the "owner of any property acquired by the municipality" is substituted for the former reference to the "party entitled to such compensation" for clarity.

Also in subsection (c)(1) of this section, the former reference to property taken by "exercising the power of" eminent domain is deleted as surplusage. Similarly, in subsection (d) of this section, the former reference to property taken by "the exercise of the power of" eminent domain is deleted.

Also in subsection (c)(1) of this section, the reference to property acquired "under subsection (b) of this section" is substituted for the former reference to property acquired "for any of the aforementioned purposes or in connection with the exercise of any of the powers which may be granted to a municipal corporation pursuant to this paragraph" for brevity.

In subsection (c)(2)(i) of this section, the reference to parties "to the transaction" is added for clarity.

In subsection (c)(3) of this section, the former reference to a municipality "tender[ing]" compensation is deleted as included in the reference to "pay[ing]" compensation.

In subsection (d) of this section, the reference to the "purposes in subsection (b) of this section" is substituted for the former reference to the "aforementioned purposes" for clarity.

In the introductory language of subsection (e) of this section, the former reference to making a "determination" is deleted as included in the reference to making a "find[ing]".

In subsection (e)(2) of this section, the former reference to the dwelling unit continuing to deteriorate "unless corrected" is deleted as implicit in the reference to continued deterioration.

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

5–216. LEGISLATIVE AUTHORITY — COMMUNITY SERVICES.

(A) ESTABLISHING RECREATIONAL FACILITIES AND PARKS.

A MUNICIPALITY MAY ESTABLISH AND MAINTAIN ANY PARK, GARDEN, PLAYGROUND, OR RECREATIONAL FACILITY THAT THE MUNICIPALITY DETERMINES IS FOR THE BENEFIT OF THE HEALTH AND WELFARE OF THE MUNICIPALITY AND ITS RESIDENTS.

(B) REGULATION OF PROPERTY FOR SPECIFIC PURPOSES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MUNICIPALITY MAY ACQUIRE BY GIFT, GRANT, BEQUEST, OR DEVISE AND HOLD PROPERTY ABSOLUTELY OR IN TRUST FOR:

(I) PARKS OR GARDENS;

(II) THE ERECTION OF STATUES, MONUMENTS, BUILDINGS, OR STRUCTURES; OR

(III) ANY PUBLIC USE.

(2) THE MUNICIPALITY SHALL ACQUIRE, HOLD, OR USE PROPERTY UNDER THIS SUBSECTION ON THE TERMS AND CONDITIONS REQUIRED BY THE GRANTOR OR DONOR AND ACCEPTED BY THE MUNICIPALITY.

(3) THE MUNICIPALITY SHALL PROVIDE FOR THE ADMINISTRATION OF ANY PROPERTY ACCEPTED BY THE MUNICIPALITY UNDER THIS SUBSECTION.

(4) SUBJECT TO THE TERMS AND CONDITIONS OF THE ORIGINAL GRANT, THE MUNICIPALITY MAY CONVEY ANY PROPERTY ACCEPTED BY THE MUNICIPALITY UNDER THIS SUBSECTION IF THE MUNICIPALITY DETERMINES THAT THE PROPERTY IS NO LONGER NEEDED FOR PUBLIC PURPOSES.

(C) ESTABLISH MUNICIPAL BAND OR MUSICAL ORGANIZATION.

A MUNICIPALITY MAY ESTABLISH, MAINTAIN, AND SUPPORT A MUNICIPAL BAND OR MUSICAL ORGANIZATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(4), (20), and the second sentence of (24).

In subsections (a) and (b)(4) of this section, the references to the "municipality" are substituted for the former references to the "legislative body" for consistency with the terminology used throughout this subtitle.

Also in subsection (a) of this section, the reference to "residents" of the municipality is substituted for the former reference to "inhabitants" of the municipality for consistency with the terminology used throughout this article.

In subsection (b)(1) of this section, the former reference to "real and personal" property is deleted as surplusage.

In subsection (b)(3) and (4) of this section, the references to "any property accepted by the municipality under this subsection" are substituted for the former references to "the same" for clarity.

In subsection (b)(3) of this section, the former reference to the "proper" administration of property is deleted as surplusage.

Defined term: "Municipality" § 1–101

5–217. LEGISLATIVE AUTHORITY — CLEANING OF SIDEWALKS.

A MUNICIPALITY MAY REQUIRE THE OWNERS OF PROPERTY TO KEEP THE SIDEWALKS ON THE PROPERTY CLEAN AND FREE FROM SNOW, ICE, OR OTHER OBSTRUCTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 2(b)(28).

Defined term: "Municipality" § 1–101

SUBTITLE 3. PRIVATE COMMUNITIES.

5–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 49(a).

No changes are made.

(B) PRIVATE COMMUNITY.

"PRIVATE COMMUNITY" MEANS:

(1) A COMMUNITY GOVERNED BY A HOMEOWNERS ASSOCIATION, AS DEFINED UNDER THE MARYLAND HOMEOWNERS ASSOCIATION ACT;

(2) A CONDOMINIUM, AS DEFINED UNDER THE MARYLAND CONDOMINIUM ACT; OR

(3) A COOPERATIVE HOUSING CORPORATION, AS DEFINED UNDER THE MARYLAND COOPERATIVE HOUSING CORPORATION ACT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 23A, § 49(b).

In this subsection and throughout this subtitle, the references to a "[p]rivate community" are substituted for the former references to a "[p]rivately owned residential community" for brevity.

In item (1) of this subsection, the reference to a "community governed by a" homeowners association is added for clarity.

In item (3) of this subsection, the reference to a cooperative housing "corporation" is substituted for the former reference to a cooperative housing "association" for consistency with the Maryland Cooperative Housing Corporation Act.

(C) RESIDENTIAL STREET SERVICE.

"RESIDENTIAL STREET SERVICE" MEANS:

(1) REMOVING SNOW, ICE, OR OTHER OBSTRUCTIONS FROM ROADWAYS;

(2) LIGHTING ROADWAYS AND MAINTAINING THE LIGHTING EQUIPMENT;

(3) COLLECTING LEAVES, RECYCLABLE MATERIALS, OR GARBAGE ALONG ROADWAYS; OR

(4) MAINTAINING ROADWAYS.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 49(c).

The only changes are in style.

Defined term: "Roadway" § 5–301

(D) ROADWAY.

"ROADWAY" MEANS A PAVED SURFACE THAT PROVIDES VEHICULAR ACCESS OR IS DESIGNATED FOR PARKING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 23A, § 49(d).

5–302. AGREEMENTS CONCERNING RESIDENTIAL STREET SERVICE.

(A) IN GENERAL.

(1) THE GOVERNING BODY OF A MUNICIPALITY THAT PROVIDES RESIDENTIAL STREET SERVICE MAY MAKE AN AGREEMENT WITH A PRIVATE COMMUNITY THAT QUALIFIES UNDER PARAGRAPH (2) OF THIS SUBSECTION CONCERNING:

(I) THE PROVISION OF RESIDENTIAL STREET SERVICE TO THE PRIVATE COMMUNITY BY THE MUNICIPALITY; OR

(II) INSTEAD OF PROVIDING RESIDENTIAL STREET SERVICE, THE REIMBURSEMENT TO THE PRIVATE COMMUNITY OF AN AMOUNT NOT TO EXCEED THE COST THAT THE MUNICIPALITY WOULD INCUR TO PROVIDE RESIDENTIAL STREET SERVICE.

(2) THE GOVERNING BODY OF A MUNICIPALITY MAY MAKE AN AGREEMENT UNDER THIS SECTION WITH A PRIVATE COMMUNITY THAT:

(I) LIES WHOLLY OR PARTLY IN THE MUNICIPALITY; AND

(II) HAS AT LEAST ONE–QUARTER MILE OF ROADWAY.

(B) TERMS OF AGREEMENT.

AN AGREEMENT ENTERED INTO UNDER THIS SECTION MAY REQUIRE THE PRIVATE COMMUNITY TO:

(1) PAY ANY INSURANCE RIDER THAT THE MUNICIPALITY REQUIRES TO ENABLE VEHICLES OWNED OR CONTRACTED BY THE MUNICIPALITY TO OPERATE ON A ROADWAY IN THE PRIVATE COMMUNITY; AND

(2) REGARDING A ROADWAY IN THE PRIVATE COMMUNITY THAT IS TO BE USED TO PROVIDE RESIDENTIAL STREET SERVICE:

(I) ALLOW THE ROADWAY TO BE DEDICATED TO PUBLIC USE; AND

(II) UNLESS MAINTENANCE OF THE ROADWAY IS PROVIDED BY THE MUNICIPALITY, MAINTAIN THE ROADWAY AT A LEVEL OF SERVICE SATISFACTORY TO THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 50 and 51.

In this section, the former references to the "governing body of" a private community are deleted as unnecessary in light of the definition of "private community" in § 5–301 of this subtitle.

In subsection (a)(2)(i) of this section, the former reference to "the boundaries of" the municipality is deleted as surplusage.

Defined terms: "Governing body" § 1–101
"Municipality" § 1–101
"Private community" § 5–301
"Residential street service" § 5–301
"Roadway" § 5–301

SUBTITLE 4. ESTABLISHMENT OF LAND BANK AUTHORITIES BY MUNICIPALITIES.

5–401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(a).

No changes are made.

(B) AUTHORITY.

"AUTHORITY" MEANS A NONPROFIT OR QUASI–GOVERNMENTAL ENTITY CREATED BY A MUNICIPALITY UNDER § 5–403 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(b).

The only changes are in style.

Defined term: "Municipality" § 1–101

(C) BOARD.

"BOARD" MEANS THE BOARD OF DIRECTORS OF AN AUTHORITY.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(c).

No changes are made.

Defined term: "Authority" § 5–401

(D) BOND.

(1) "BOND" MEANS A BOND ISSUED BY AN AUTHORITY UNDER THIS SUBTITLE.

(2) "BOND" INCLUDES A BOND, A REFUNDING BOND, A NOTE, AND ANY OTHER OBLIGATION.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(d).

No changes are made.

Defined term: "Authority" § 5–401

(E) COST.

"COST" INCLUDES:

(1) THE PURCHASE PRICE OF PROPERTY;

(2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN PROPERTY;

(3) THE COST OF ANY IMPROVEMENTS MADE TO PROPERTY;

(4) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY OR DESIRABLE TO VEST TITLE TO ANY PART OF PROPERTY IN AN AUTHORITY OR OTHER OWNER;

(5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, OR PERMIT ASSOCIATED WITH A PROJECT;

(6) THE COST OF LABOR, MACHINERY, AND EQUIPMENT NECESSARY TO IMPLEMENT A PROJECT;

(7) FINANCING CHARGES;

(8) INTEREST AND RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

(9) THE COST OF REVENUE AND COST ESTIMATES, ENGINEERING AND LEGAL SERVICES, PLANS, SPECIFICATIONS, STUDIES, SURVEYS, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OR PRACTICABILITY OF A PROJECT;

(10) ADMINISTRATIVE EXPENSES; AND

(11) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:

(I) FINANCING A PROJECT;

(II) ACQUIRING AND IMPROVING A PROJECT;

(III) PLACING A PROJECT IN OPERATION, INCLUDING REASONABLE PROVISIONS FOR WORKING CAPITAL; AND

(IV) OPERATING AND MAINTAINING A PROJECT.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(e).

The only changes are in style.

Defined terms: "Authority" § 5–401
"Project" § 5–401
"Revenue" § 5–401

(F) PROJECT.

(1) "PROJECT" MEANS ANY ORGANIZED PLAN CARRIED OUT BY AN AUTHORITY IN RELATION TO:

(I) ACQUIRING AND REHABILITATING ABANDONED AND DILAPIDATED PROPERTIES; AND

(II) MARKETING AND LEASING OR SELLING THE REHABILITATED PROPERTIES.

(2) "PROJECT" INCLUDES:

(I) ACQUIRING LAND OR AN INTEREST IN LAND;

(II) ACQUIRING STRUCTURES, EQUIPMENT, AND FURNISHINGS LOCATED ON A PROPERTY;

(III) ACQUIRING PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO A PROJECT; AND

(IV) OBTAINING OR CONTRACTING FOR ANY SERVICES NECESSARY FOR THE REHABILITATION OF A PROPERTY.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(g).

No changes are made.

Defined term: "Authority" § 5–401

(G) REVENUE.

(1) "REVENUE" MEANS THE INCOME, REVENUE, AND OTHER MONEY AN AUTHORITY RECEIVES FROM OR IN CONNECTION WITH A PROJECT AND ALL OTHER INCOME OF AN AUTHORITY.

(2) "REVENUE" INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(h).

The only changes are in style.

Defined terms: "Authority" § 5–401
"Project" § 5–401

(H) TAX SALE PROPERTY.

"TAX SALE PROPERTY" MEANS PROPERTY OR AN INTEREST IN PROPERTY SOLD BY THE TAX COLLECTOR OF THE COUNTY IN ACCORDANCE WITH TITLE 14, SUBTITLE 8, PART III OF THE TAX – PROPERTY ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(i).

No changes are made.

Defined terms: "County" § 1–101
"Tax collector" § 1–101

(I) TRUST AGREEMENT.

(1) "TRUST AGREEMENT" MEANS AN AGREEMENT ENTERED INTO BY AN AUTHORITY TO SECURE A BOND.

(2) "TRUST AGREEMENT" INCLUDES A BOND CONTRACT, BOND RESOLUTION, OR OTHER CONTRACT WITH OR FOR THE BENEFIT OF A BONDHOLDER.

REVISOR'S NOTE: This subsection formerly was Art. 23A, § 52(j).

The only changes are in style.

Defined terms: "Authority" § 5–401
"Bond" § 5–401

5–402. CONSTRUCTION OF SUBTITLE.

(A) IN GENERAL.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

(B) POWERS GRANTED TO AUTHORITY ARE SUPPLEMENTAL.

THE POWERS GRANTED TO AN AUTHORITY UNDER THIS SUBTITLE ARE SUPPLEMENTAL TO POWERS GRANTED TO AN AUTHORITY UNDER ANY OTHER LAW.

(C) LIMITATION OF POWERS.

THIS SUBTITLE DOES NOT AUTHORIZE AN AUTHORITY TO:

(1) EXERCISE THE POWER OF EMINENT DOMAIN; OR

(2) IMPOSE ANY TAX OR SPECIAL ASSESSMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 53.

In subsection (b) of this section, the reference to any "other" law is substituted for the former reference to any "State or local" law for consistency with other similar provisions of this article.

Also in subsection (b) of this section, the former reference to powers being "in addition" to other powers is deleted as included in the reference to powers being "supplemental" to other powers.

Defined term: "Authority" § 5–401

5–403. LAND BANK AUTHORITY.

(A) ESTABLISHMENT.

BY ORDINANCE, THE LEGISLATIVE BODY OF A MUNICIPALITY MAY ESTABLISH A LAND BANK AUTHORITY IN ACCORDANCE WITH THIS SUBTITLE.

(B) ARTICLES OF INCORPORATION.

AN ORDINANCE ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE PROPOSED ARTICLES OF INCORPORATION OF AN AUTHORITY THAT STATE:

(1) THE NAME OF THE AUTHORITY, WHICH SHALL BE "LAND BANK AUTHORITY OF (NAME OF THE INCORPORATING MUNICIPALITY)";

(2) THAT THE AUTHORITY IS FORMED UNDER THIS SUBTITLE;

(3) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE INITIAL MEMBERS OF THE BOARD;

(4) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE AUTHORITY;

(5) THE PURPOSES FOR WHICH THE AUTHORITY IS FORMED; AND

(6) THE POWERS OF THE AUTHORITY, SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE.

(C) FILING AND RECORDATION.

(1) THE CHIEF EXECUTIVE OF THE INCORPORATING MUNICIPALITY, OR ANY OTHER OFFICIAL DESIGNATED IN THE ORDINANCE ESTABLISHING AN AUTHORITY, SHALL EXECUTE AND FILE THE ARTICLES OF INCORPORATION OF THE AUTHORITY FOR RECORDATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(2) WHEN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION FOR RECORDATION, THE AUTHORITY BECOMES A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF THE INCORPORATING MUNICIPALITY.

(3) ACCEPTANCE OF THE ARTICLES OF INCORPORATION FOR RECORDATION BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE OF THE FORMATION OF THE AUTHORITY.

(D) ARTICLES OF AMENDMENT.

(1) BY ORDINANCE, THE LEGISLATIVE BODY OF THE INCORPORATING MUNICIPALITY MAY ADOPT AN AMENDMENT TO THE ARTICLES OF INCORPORATION OF AN AUTHORITY.

(2) ARTICLES OF AMENDMENT MAY CONTAIN ANY PROVISION THAT LAWFULLY COULD BE CONTAINED IN ARTICLES OF INCORPORATION AT THE TIME OF THE AMENDMENT.

(3) THE ARTICLES OF AMENDMENT SHALL BE FILED FOR RECORDATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(4) THE ARTICLES OF AMENDMENT ARE EFFECTIVE AS OF THE TIME THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES FOR RECORDATION.

(5) ACCEPTANCE OF THE ARTICLES OF AMENDMENT FOR RECORDATION BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE THAT THE ARTICLES HAVE BEEN LAWFULLY AND PROPERLY ADOPTED.

(E) CHANGE AND TERMINATION.

(1) SUBJECT TO THIS SECTION AND ANY LIMITATIONS IMPOSED BY LAW ON THE IMPAIRMENT OF CONTRACTS, THE INCORPORATING MUNICIPALITY, IN ITS SOLE DISCRETION, BY ORDINANCE MAY:

(I) SET OR CHANGE THE STRUCTURE, ORGANIZATION, PROCEDURES, PROGRAMS, OR ACTIVITIES OF AN AUTHORITY; OR

(II) TERMINATE THE AUTHORITY.

(2) ON TERMINATION OF THE AUTHORITY:

(I) TITLE TO ALL PROPERTY OF THE AUTHORITY SHALL BE TRANSFERRED TO AND SHALL VEST IN THE INCORPORATING MUNICIPALITY; AND

(II) ALL OBLIGATIONS OF THE AUTHORITY SHALL BE TRANSFERRED TO AND ASSUMED BY THE INCORPORATING MUNICIPALITY.

REVISOR'S NOTE: This section formerly was Art. 23A, § 54.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Board" § 5–401
"Municipality" § 1–101

5–404. BOARD OF DIRECTORS.

AN ORDINANCE THAT CREATES AN AUTHORITY SHALL ESTABLISH A BOARD TO GOVERN THE AUTHORITY AND SHALL INCLUDE PROVISIONS FOR:

(1) APPOINTMENT PROCEDURES;

(2) POWERS OF THE BOARD;

(3) REMOVAL PROCEDURES;

(4) TERM LENGTHS; AND

(5) THE ELECTION OF A CHAIR.

REVISOR'S NOTE: This section formerly was Art. 23A, § 55.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Board" § 5–401

5–405. POWERS.

(A) IN GENERAL.

EXCEPT AS LIMITED BY THE AUTHORITY'S ARTICLES OF INCORPORATION, AN AUTHORITY HAS ALL THE POWERS SPECIFIED IN THIS SUBTITLE.

(B) SPECIFIC POWERS.

AN AUTHORITY MAY:

(1) ADOPT BYLAWS FOR THE CONDUCT OF BUSINESS OF THE AUTHORITY;

(2) SUE AND BE SUED;

(3) MAINTAIN AN OFFICE AT A PLACE THE AUTHORITY DESIGNATES;

(4) BORROW MONEY;

(5) ISSUE BONDS AND OTHER OBLIGATIONS FOR ANY CORPORATE PURPOSE IN ACCORDANCE WITH THIS SUBTITLE OR AN ORDINANCE ADOPTED UNDER THIS SUBTITLE;

(6) INVEST MONEY OF THE AUTHORITY IN INSTRUMENTS, OBLIGATIONS, SECURITIES, OR PROPERTY;

(7) ENTER INTO CONTRACTS AND EXECUTE THE INSTRUMENTS OR AGREEMENTS NECESSARY OR CONVENIENT TO CARRY OUT THIS SUBTITLE OR AN ORDINANCE ADOPTED UNDER THIS SUBTITLE TO ACCOMPLISH THE PURPOSES OF THE AUTHORITY;

(8) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, OR OTHER ASSISTANCE IN ANY FORM FROM ANY PUBLIC OR PRIVATE SOURCE, SUBJECT TO THIS SUBTITLE OR ANY ORDINANCE ADOPTED UNDER THIS SUBTITLE;

(9) PARTICIPATE IN A PROGRAM OF THE FEDERAL GOVERNMENT, THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN INTERGOVERNMENTAL ENTITY CREATED UNDER STATE LAW;

(10) CONTRACT FOR GOODS AND SERVICES;

(11) STUDY, DEVELOP, AND PREPARE REPORTS OR PLANS TO ASSIST IN THE AUTHORITY'S EXERCISE OF POWERS AND TO MONITOR AND EVALUATE THE AUTHORITY'S PROGRESS;

(12) CONTRACT WITH PUBLIC OR PRIVATE ENTITIES FOR SERVICES NECESSARY TO MANAGE AND OPERATE THE AUTHORITY;

(13) PROVIDE ACQUISITION, MANAGEMENT, AND SALE SERVICES TO A MUNICIPALITY FOR PROPERTY OWNED BY THE MUNICIPALITY;

(14) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER PERSON, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT, FOR THE PURPOSES OF DEVELOPING PROPERTY IN ORDER TO MAXIMIZE MARKETABILITY;

(15) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS, UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(16) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE OR BY AN ORDINANCE ADOPTED UNDER THIS SUBTITLE.

(C) DELEGATION.

AN AUTHORITY MAY DELEGATE TO A MEMBER OR OFFICER A POWER GRANTED TO THE AUTHORITY BY THIS SUBTITLE, INCLUDING THE POWER TO EXECUTE A BOND, OBLIGATION, CERTIFICATE, DEED, LEASE, MORTGAGE AGREEMENT, OR OTHER DOCUMENT OR INSTRUMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 56.

In subsection (b)(9) of this section, the former reference to participating "in any way" in a program is deleted as surplusage.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Municipality" § 1–101
"Person" § 1–101
"State" § 1–101

5–406. PROPERTY.

(A) IN GENERAL.

AN AUTHORITY MAY:

(1) ACQUIRE REAL PROPERTY OR RIGHTS OR INTERESTS IN REAL PROPERTY, DIRECTLY OR THROUGH A PERSON OR GOVERNMENTAL ENTITY, BY GIFT, DEVISE, TRANSFER, EXCHANGE, FORECLOSURE, PURCHASE, OR OTHERWISE ON TERMS AND CONDITIONS AND IN A MANNER THE AUTHORITY CONSIDERS PROPER;

(2) OWN PROPERTY IN THE AUTHORITY'S NAME, INCLUDING TAX FORECLOSED PROPERTY AND PROPERTY WITHOUT CLEAR TITLE;

(3) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF THE AUTHORITY'S INTEREST IN PROPERTY;

(4) PROCURE INSURANCE AGAINST LOSS IN CONNECTION WITH THE PROPERTY, ASSETS, OR ACTIVITIES OF THE AUTHORITY; AND

(5) EXECUTE DEEDS, MORTGAGES, CONTRACTS, LEASES, PURCHASES, OR OTHER AGREEMENTS REGARDING THE PROPERTY OF THE AUTHORITY.

(B) LIMITATION.

PROPERTY PURCHASED, OWNED, OR SOLD UNDER THIS SECTION MAY NOT BE LOCATED OUTSIDE THE MUNICIPALITY IN WHICH THE AUTHORITY IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 57.

In subsection (a)(2) of this section, the former reference to property "acquired by or conveyed to the authority by the State, a local government, an intergovernmental agency created under the laws of this State, or any other public or private person" is deleted as unnecessary because it encompasses all entities that could possibly transfer property.

In subsection (a)(3) of this section, the former reference to the authority's "property" is deleted as included in the reference to the authority's "interest in property".

Defined terms: "Authority" § 5–401
"Municipality" § 1–101
"Person" § 1–101

5–407. STAFF AND CONSULTANTS.

AN AUTHORITY MAY:

(1) EMPLOY STAFF AND RETAIN CONSULTANTS; AND

(2) SET THEIR COMPENSATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 58.

In item (1) of this section, the former reference to employing staff and retaining consultants "as employees or agents that the authority considers necessary" is deleted as implicit.

Defined term: "Authority" § 5–401

5–408. APPOINTMENT OF RECEIVER.

THE COURT MAY APPOINT AN AUTHORITY TO SERVE AS A RECEIVER IN A RECEIVERSHIP PROCEEDING FILED BY A MUNICIPALITY.

REVISOR'S NOTE: This section formerly was Art. 23A, § 59.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Municipality" § 1–101

5–409. INTERNAL ADMINISTRATION.

(A) CODE OF ETHICS; POLICIES AND PROCEDURES.

AN AUTHORITY SHALL:

(1) ADOPT A CODE OF ETHICS FOR THE AUTHORITY'S DIRECTORS, OFFICERS, AND EMPLOYEES;

(2) ESTABLISH POLICIES AND PROCEDURES REQUIRING:

(I) THE DISCLOSURE OF RELATIONSHIPS THAT MAY CREATE A CONFLICT OF INTEREST; AND

(II) ANY MEMBER OF THE BOARD WITH A DIRECT OR INDIRECT INTEREST IN A MATTER BEFORE THE AUTHORITY TO DISCLOSE THE MEMBER'S INTEREST TO THE BOARD BEFORE THE BOARD TAKES ANY ACTION ON THE MATTER; AND

(3) COMPLY WITH THE OPEN MEETINGS ACT.

(B) CONTROLLING PROCEDURES.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE OR THE ORDINANCE ESTABLISHING AN AUTHORITY, THE PROCEDURES OF THE INCORPORATING MUNICIPALITY CONTROL ANY MATTER RELATING TO THE INTERNAL ADMINISTRATION OF AN AUTHORITY.

REVISOR'S NOTE: This section formerly was Art. 23A, § 60.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Board" § 5–401
"Municipality" § 1–101

5–410. IMMUNITY.

AN AUTHORITY MAY HAVE THE SAME IMMUNITIES AS A MUNICIPALITY.

REVISOR'S NOTE: This section formerly was Art. 23A, § 61.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Municipality" § 1–101

5–411. PROPERTY RIGHTS.

(A) IN GENERAL.

WITH RESPECT TO PROPERTY HELD OR OWNED BY THE AUTHORITY, THE AUTHORITY MAY:

(1) GRANT OR ACQUIRE A LICENSE, AN EASEMENT, OR AN OPTION;

(2) SET, CHARGE, AND COLLECT RENTS, FEES, AND CHARGES FOR USE OF THE PROPERTY;

(3) PAY TAXES OR SPECIAL ASSESSMENTS DUE;

(4) TAKE ANY ACTION, PROVIDE ANY NOTICE, OR INSTITUTE ANY PROCEEDING REQUIRED TO CLEAR OR QUIET TITLE IN ORDER TO ESTABLISH OWNERSHIP BY AND VEST TITLE TO PROPERTY IN THE AUTHORITY;

(5) ABATE VIOLATIONS OF THE LOCAL AND STATE BUILDING, FIRE, HEALTH, AND RELATED CODES; AND

(6) HOLD, MANAGE, MAINTAIN, OPERATE, REPAIR, LEASE AS LESSOR, SECURE, PREVENT THE WASTE OR DETERIORATION OF, OR DEMOLISH THE PROPERTY AND TAKE ALL OTHER ACTIONS NECESSARY TO PRESERVE THE VALUE OF THE PROPERTY.

(B) PARTY TO ACTION.

AN AUTHORITY SHALL BE MADE A PARTY TO, AND SHALL DEFEND ANY ACTION OR PROCEEDING CONCERNING, CLAIMS AGAINST PROPERTY HELD BY THE AUTHORITY.

REVISOR'S NOTE: This section formerly was Art. 23A, § 62.

The only changes are in style.

Defined terms: "Authority" § 5–401
"State" § 1–101

5–412. PROPERTY — INVENTORY AND CLASSIFICATION; FEE.

(A) INVENTORY AND CLASSIFICATION.

PROPERTY HELD BY AN AUTHORITY SHALL BE INVENTORIED AND CLASSIFIED ACCORDING TO TITLE STATUS AND SUITABILITY FOR USE.

(B) FEE.

A CLERK OF THE COURT MAY NOT CHARGE A FEE TO RECORD A DOCUMENT EVIDENCING THE TRANSFER UNDER THIS SUBTITLE OF PROPERTY TO THE AUTHORITY BY THE STATE OR A MUNICIPALITY.

REVISOR'S NOTE: This section formerly was Art. 23A, § 63.

In subsection (b) of this section, the reference to a "clerk of the court" is substituted for the former reference to a "register of deeds in a county in which property owned by an authority is located" for accuracy and brevity.

The only other changes are in style.

Defined terms: "Authority" § 5–401
"Municipality" § 1–101
"State" § 1–101

5–413. OUTSTANDING TAX LIENS.

(A) CONVEYANCE OF PROPERTY INTEREST TO AUTHORITY.

AFTER AN UNSUCCESSFUL ATTEMPT BY THE MUNICIPALITY TO COLLECT OUTSTANDING LIENS AT TAX SALE AND SUBJECT TO THE APPROVAL OF THE TAX COLLECTOR OF THE JURISDICTION WHERE THE PROPERTY IS LOCATED, AN AUTHORITY MAY ACCEPT FROM A PERSON WITH AN INTEREST IN A PARCEL OF TAX DELINQUENT PROPERTY OR TAX SALE PROPERTY A DEED OR ASSIGNMENT CONVEYING THAT PERSON'S INTEREST IN THE PROPERTY INSTEAD OF:

(1) THE FORECLOSURE OR SALE OF THE PROPERTY FOR DELINQUENT TAXES, PENALTIES, AND INTEREST, AS DEFINED BY § 14–801(C) OF THE TAX – PROPERTY ARTICLE; OR

(2) DELINQUENT–SPECIFIC TAXES IMPOSED BY A LOCAL TAXING JURISDICTION.

(B) OTHER LIENS NOT AFFECTED.

CONVEYANCE OF PROPERTY BY DEED INSTEAD OF FORECLOSURE UNDER THIS SECTION MAY NOT AFFECT OR IMPAIR ANY OTHER LIEN AGAINST THE PROPERTY OR ANY EXISTING RECORDED OR UNRECORDED INTEREST IN THE PROPERTY, INCLUDING ANY:

(1) EASEMENT OR RIGHT–OF–WAY;

(2) FUTURE INSTALLMENT OF A SPECIAL ASSESSMENT;

(3) LIEN RECORDED BY THE STATE;

(4) PRIVATE DEED RESTRICTION;

(5) SECURITY INTEREST OR MORTGAGE; OR

(6) TAX LIEN OF ANOTHER TAXING JURISDICTION THAT DOES NOT CONSENT TO A RELEASE OF ITS LIEN.

(C) RELEASE OR ABATEMENT.

A TAX LIEN AGAINST PROPERTY HELD BY OR UNDER THE CONTROL OF AN AUTHORITY MAY BE RELEASED OR ABATED AT ANY TIME BY:

(1) A COUNTY OR MUNICIPALITY WITH RESPECT TO A LIEN HELD BY THE COUNTY OR MUNICIPALITY;

(2) THE GOVERNING BODY OF ANY TAXING JURISDICTION OTHER THAN THE STATE, COUNTY, OR MUNICIPALITY WITH RESPECT TO A LIEN HELD BY THE TAXING JURISDICTION;

(3) A PUBLIC WATER OR SEWER AUTHORITY WITH RESPECT TO A TAX LIEN OR RIGHT TO COLLECT A TAX HELD BY THE PUBLIC WATER OR SEWER AUTHORITY; OR

(4) THE COMPTROLLER WITH RESPECT TO A STATE TAX LIEN.

REVISOR'S NOTE: This section formerly was Art. 23A, § 64.

In the introductory language of subsection (b) of this section, the former phrase "[e]xcept as otherwise provided by law" is deleted as surplusage.

The only other changes are in style.

Defined terms: "Authority" § 5–401
"County" § 1–101
"Municipality" § 1–101
"Person" § 1–101
"State" § 1–101
"Tax collector" § 1–101
"Tax sale property" § 5–401

5–414. MONEY AND PROCEEDS.

(A) RETURN OF MONEY TO TAX COLLECTOR.

MONEY RECEIVED BY AN AUTHORITY AS PAYMENT OF TAXES, PENALTIES, OR INTEREST, OR FROM THE REDEMPTION OR SALE OF PROPERTY SUBJECT TO A TAX LIEN OF ANY TAXING UNIT, SHALL BE RETURNED TO THE TAX COLLECTOR IN THE JURISDICTION WHERE THE PROPERTY IS LOCATED FOR DISTRIBUTION ON A PRO RATA BASIS TO THE APPROPRIATE TAXING UNITS IN AN AMOUNT EQUAL TO DELINQUENT TAXES, PENALTIES, AND INTEREST OWED ON THE PROPERTY.

(B) RETENTION OF PROCEEDS.

PROCEEDS RECEIVED BY AN AUTHORITY MAY BE RETAINED BY THE AUTHORITY FOR THE PURPOSES OF THIS SUBTITLE, UNLESS OTHERWISE DESIGNATED BY:

(1) AN AGREEMENT OF THE AUTHORITY;

(2) THE PROVISIONS OF A DEED;

(3) THIS SUBTITLE; OR

(4) ANY OTHER LAW.

REVISOR'S NOTE: This section formerly was Art. 23A, § 65.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Tax collector" § 1–101

5–415. STATE AND LOCAL TAXES.

(A) EXEMPTION.

AN AUTHORITY IS EXEMPT FROM ANY STATE OR LOCAL TAX OR ASSESSMENT ON THE AUTHORITY'S PROPERTIES OR ACTIVITIES OR ON ANY REVENUE FROM THE PROPERTIES OR ACTIVITIES.

(B) SALE OR LEASE OF PROPERTY TO PRIVATE ENTITY.

PROPERTY THAT AN AUTHORITY SELLS OR LEASES TO A PRIVATE ENTITY IS SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR LEASE.

(C) BONDS.

THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE ON THEIR SALE OR TRANSFER, ARE EXEMPT FROM ALL STATE AND LOCAL TAXES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 66.

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

Also in subsection (a) of this section, the former reference to "any requirement to pay" certain taxes is deleted as surplusage.

In subsection (c) of this section, the former reference to bonds being "forever" exempt from State and local taxes is deleted as surplusage.

The only other changes are in style.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Revenue" § 5–401
"State" § 1–101

5–416. CIVIL ACTION.

(A) IN GENERAL.

AN AUTHORITY MAY BRING A CIVIL ACTION TO PREVENT, RESTRAIN, OR ENJOIN THE WASTE OF OR UNLAWFUL REMOVAL OF ANY PROPERTY FROM REAL PROPERTY HELD BY THE AUTHORITY.

(B) PARTY TO ACTION.

(1) AN AUTHORITY SHALL BE MADE A PARTY TO ANY ACTION TO SET ASIDE:

(I) TITLE TO PROPERTY THE AUTHORITY HOLDS; OR

(II) THE SALE OF PROPERTY BY THE AUTHORITY.

(2) A HEARING IN AN ACTION UNDER THIS SUBSECTION MAY NOT BE HELD UNTIL THE AUTHORITY IS SERVED IN ACCORDANCE WITH THE MARYLAND RULES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 67.

In subsection (b)(1) of this section, the former reference to a "proceeding" is deleted as included in the reference to an "action".

In subsection (b)(2) of this section, the reference to "an action under this subsection" is substituted for the former reference to "any such proceeding" for clarity.

Defined term: "Authority" § 5–401

5–417. PUBLIC PROPERTY.

(A) DECLARATION OF PURPOSE.

PROPERTY OF AN AUTHORITY IS PUBLIC PROPERTY DEVOTED TO AN ESSENTIAL PUBLIC AND GOVERNMENTAL FUNCTION AND PURPOSE.

(B) INCOME.

INCOME OF AN AUTHORITY IS RECEIVED FOR A PUBLIC AND GOVERNMENTAL PURPOSE.

REVISOR'S NOTE: This section formerly was Art. 23A, § 68.

In subsection (b) of this section, the reference to income "received" for a public purpose is substituted for the former reference to income "considered to be" for a public purpose for clarity.

No other changes are made.

Defined term: "Authority" § 5–401

5–418. LOCAL LAWS.

AN AUTHORITY IS SUBJECT TO ANY LOCAL:

(1) LAND USE CONTROLS;

(2) PERMITTING PROCESSES FOR CONSTRUCTION, DEMOLITION, OR REPAIR OF A PROPERTY; AND

(3) ZONING LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 69.

Defined term: "Authority" § 5–401

5–419. REPORT.

AN AUTHORITY SHALL REPORT ANNUALLY ON THE ACTIVITIES OF THE AUTHORITY TO THE MUNICIPALITY WHERE THE AUTHORITY IS LOCATED AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section formerly was Art. 23A, § 70.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Municipality" § 1–101

5–420. BONDS.

(A) POWERS.

(1) AN AUTHORITY MAY:

(I) ISSUE BONDS TO PAY THE COST OF ACQUIRING OR IMPROVING PROPERTY;

(II) FUND OR REFUND THE BONDS;

(III) PURCHASE BONDS WITH ANY FUNDS AVAILABLE; AND

(IV) HOLD, PLEDGE, CANCEL, OR RESELL BONDS.

(2) BY RESOLUTION, AN AUTHORITY MAY AUTHORIZE THE CHAIR, ONE OF THE AUTHORITY'S MEMBERS, OR A COMMITTEE OF THE MEMBERS TO DETERMINE OR PROVIDE FOR ANY MATTER RELATING TO BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE, INCLUDING:

(I) SPECIFYING, DETERMINING, REQUIRING, AND APPROVING MATTERS, DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS;

(II) CREATING SECURITY FOR THE BONDS; AND

(III) PROVIDING FOR THE ADMINISTRATION OF BOND ISSUES.

(3) THE POWER GRANTED IN PARAGRAPH (2) OF THIS SUBSECTION IS IN ADDITION TO POWERS CONFERRED ON THE AUTHORITY BY THIS SUBTITLE AND DOES NOT LIMIT ANY POWER OF THE AUTHORITY UNDER THIS SUBTITLE.

(4) WITHIN THE LIMITS THAT THE AUTHORITY SETS, THE AUTHORITY MAY AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

(B) ISSUANCE.

AN AUTHORITY MAY ISSUE THE BONDS AT ONE TIME OR IN ONE OR MORE SERIES.

(C) RESOLUTION.

FOR EACH ISSUE OF AN AUTHORITY'S BONDS, THE AUTHORITY SHALL PASS A RESOLUTION THAT:

(1) SPECIFIES AND DESCRIBES THE PROJECT FOR WHICH THE PROCEEDS OF THE BOND ISSUANCE ARE INTENDED;

(2) GENERALLY DESCRIBES THE PUBLIC PURPOSE AND THE FINANCING TRANSACTION TO BE ACCOMPLISHED;

(3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY BE ISSUED BY THE AUTHORITY; AND

(4) IMPOSES ANY TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF THE BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE.

(D) NEGOTIABLE INSTRUMENTS.

SUBJECT TO ANY PROVISION FOR THEIR REGISTRATION, BONDS ARE NEGOTIABLE INSTRUMENTS FOR ALL PURPOSES REGARDLESS OF WHETHER THEY ARE PAYABLE FROM A SPECIAL FUND.

(E) TYPES; TERMS.

(1) THE BONDS MAY BE SERIAL BONDS, TERM BONDS, OR BOTH.

(2) SUBJECT TO ANY DELEGATION UNDER SUBSECTION (A)(2) OF THIS SECTION, THE RESOLUTION AUTHORIZING BONDS MAY PROVIDE:

(I) THE DATES OF THE BONDS;

(II) THE MATURITY DATES OF THE BONDS;

(III) THE INTEREST RATES ON THE BONDS;

(IV) THE TIME AT WHICH THE BONDS WILL BE PAYABLE;

(V) THE DENOMINATIONS OF THE BONDS;

(VI) WHETHER THE BONDS WILL BE IN COUPON OR REGISTERED FORM;

(VII) ANY REGISTRATION PRIVILEGES OF THE BONDS;

(VIII) THE MANNER OF EXECUTION OF THE BONDS;

(IX) THE PLACE AT WHICH THE BONDS WILL BE PAYABLE; AND

(X) ANY TERMS OF REDEMPTION OF THE BONDS.

(3) THE BONDS SHALL MATURE WITHIN A PERIOD NOT TO EXCEED 50 YEARS AFTER THE DATE OF ISSUE.

(4) THE BONDS SHALL BE PAYABLE IN UNITED STATES CURRENCY.

(F) SALE.

AN AUTHORITY SHALL SELL THE BONDS AT COMPETITIVE OR NEGOTIATED SALE IN A MANNER AND FOR A PRICE THE AUTHORITY DETERMINES TO BE IN THE AUTHORITY'S BEST INTERESTS.

(G) VALIDITY OF SIGNATURE.

AN OFFICER'S SIGNATURE OR FACSIMILE ON A BOND REMAINS VALID IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(H) DEFINITIVE BONDS; INTERIM RECEIPTS.

PENDING PREPARATION OF THE DEFINITIVE BONDS, AN AUTHORITY MAY ISSUE INTERIM RECEIPTS OR CERTIFICATES THAT WILL BE EXCHANGED FOR DEFINITIVE BONDS.

(I) TRUST AGREEMENT.

A TRUST AGREEMENT AUTHORIZING BONDS MAY CONTAIN PROVISIONS THAT ARE PART OF THE CONTRACT WITH THE BONDHOLDERS, INCLUDING:

(1) THE RATES, RENTALS, FEES, AND OTHER CHARGES, THE AMOUNTS TO BE RAISED IN EACH YEAR, AND THE USE AND DISPOSITION OF THE REVENUES;

(2) THE SETTING ASIDE OF RESERVES AND SINKING FUNDS AND THEIR DISPOSITION;

(3) LIMITS ON THE RIGHT OF THE AUTHORITY OR THE AUTHORITY'S AGENTS TO RESTRICT AND REGULATE THE USE OF A PROJECT;

(4) LIMITS ON THE PURPOSE TO WHICH THE PROCEEDS OF THE SALE OF BONDS MAY BE APPLIED;

(5) LIMITS ON ISSUING ADDITIONAL BONDS AND REFUNDING BONDS AND THE TERMS UNDER WHICH ADDITIONAL BONDS MAY BE ISSUED AND SECURED;

(6) THE PROCEDURE TO AMEND OR ABROGATE THE TERMS OF A CONTRACT WITH BONDHOLDERS AND THE REQUIREMENTS FOR CONSENT;

(7) LIMITS ON THE AMOUNT OF PROJECT REVENUES TO BE EXPENDED FOR OPERATING, ADMINISTRATIVE, OR OTHER EXPENSES OF THE AUTHORITY;

(8) THE ACTS OR OMISSIONS THAT CONSTITUTE DEFAULT BY THE AUTHORITY AND THE RIGHTS AND REMEDIES OF THE BONDHOLDERS IN A DEFAULT;

(9) THE CONVEYANCE OR MORTGAGING OF A PROJECT AND ITS SITE TO SECURE THE BONDHOLDERS;

(10) CREATION AND DISPOSITION OF A COLLATERAL FUND TO SECURE THE BONDHOLDERS; AND

(11) PLEDGING THE FOLLOWING TO SECURE PAYMENT OF BONDS, SUBJECT TO ANY EXISTING AGREEMENTS WITH BONDHOLDERS:

1. THE FULL FAITH AND CREDIT OF AN AUTHORITY;

2. REVENUES OF A PROJECT;

3. A REVENUE–PRODUCING CONTRACT THE AUTHORITY HAS MADE WITH A PERSON OR PUBLIC ENTITY; OR

4. THE PROCEEDS OF THE SALE OF BONDS.

(J) PERSONAL LIABILITY.

THE MEMBERS OF AN AUTHORITY AND A PERSON EXECUTING THE BONDS MAY NOT BE HELD LIABLE PERSONALLY ON THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 71.

In the introductory language of subsection (a) of this section, the former word "periodically" is deleted as surplusage.

In subsection (a)(1)(i) of this section, the former reference to paying "all or part of" the cost of acquiring or improving property is deleted as surplusage.

In subsection (a)(2) of this section, the former reference to a member of the authority "[t]aking other actions it considers appropriate concerning the bonds" is deleted as redundant of the reference to "determin[ing] or provid[ing] for any matter relating to bonds that the authority considers appropriate".

In subsection (a)(4) of this section, the phrase "[w]ithin the limits that the authority sets" is substituted for the former statement that "[i]f the authority authorizes the executive director to take any of the actions described in paragraph (2) of this subsection, the authority shall prescribe limits within which the executive director may exercise discretion" for brevity.

In subsection (b) of this section, the former reference to issuing bonds "from time to time" is deleted as surplusage.

In subsection (e)(1) of this section, the former reference to bonds being issued "in the discretion of the authority" is deleted as surplusage.

In subsection (f) of this section, the former reference to bonds being "exempt from §§ 8–206 and 8–208 of the State Finance and Procurement Article" is deleted as unnecessary because those sections of law only apply to a unit of the State.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference in subsection (e)(2)(vi) of this section to issuing bonds in "coupon form" may be obsolete. The federal Tax Equity and Fiscal Responsibility Act of 1982 prohibited the new issuance of bearer bonds (bonds in coupon form) in the United States. All new bonds are required to be registered so the Internal Revenue Service can keep track of them for tax purposes.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Cost" § 5–401
"Person" § 1–101
"Project" § 5–401
"Revenue" § 5–401
"Trust agreement" § 5–401

5–421. TRUST AGREEMENT.

(A) TRUSTEE.

THE CORPORATE TRUSTEE UNDER A TRUST AGREEMENT MAY BE A TRUST COMPANY OR BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(B) EXPENSE.

AN EXPENSE INCURRED IN CARRYING OUT THE TRUST AGREEMENT OR A RESOLUTION MAY BE TREATED AS PART OF THE COST OF THE OPERATION OF A PROJECT.

REVISOR'S NOTE: This section formerly was Art. 23A, § 72.

No changes are made.

Defined terms: "Cost" § 5–401
"Project" § 5–401
"State" § 1–101
"Trust agreement" § 5–401

5–422. CONCLUSIVE AND BINDING DETERMINATION OF AUTHORITY.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR THE SECURITY FOR A BOND, THE DETERMINATION OF AN AUTHORITY UNDER THIS SUBTITLE IS CONCLUSIVE AND BINDING.

REVISOR'S NOTE: This section formerly was Art. 23A, § 73.

No changes are made.

Defined terms: "Authority" § 5–401
"Bond" § 5–401

5–423. SECURITIES.

BONDS ARE SECURITIES:

(1) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW; AND

(2) IN WHICH ANY OF THE FOLLOWING PERSONS OR ENTITIES MAY LEGALLY AND PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OR ENTITY OWNS OR CONTROLS:

(I) AN OFFICER OR A UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE;

(II) A BANK, A TRUST COMPANY, A SAVINGS AND LOAN ASSOCIATION, AN INVESTMENT COMPANY, OR ANY OTHER PERSON CONDUCTING A BANKING BUSINESS;

(III) AN INSURANCE COMPANY, AN INSURANCE ASSOCIATION, OR ANY OTHER PERSON CONDUCTING AN INSURANCE BUSINESS;

(IV) A PERSONAL REPRESENTATIVE, A GUARDIAN, A TRUSTEE, OR ANY OTHER FIDUCIARY; AND

(V) ANY OTHER PERSON.

REVISOR'S NOTE: This section formerly was Art. 23A, § 74.

In the introductory language of item (2) of this section, the references to "entit[ies]" are added for accuracy.

In item (2)(i) of this section, the reference to a political subdivision "of the State" is added for clarity.

The only other changes are in style.

Defined terms: "Bond" § 5–401
"Person" § 1–101
"State" § 1–101

5–424. LIABILITY; FULL FAITH AND CREDIT.

(A) IN GENERAL.

A BOND IS NOT:

(1) A DEBT OR LIABILITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

(2) A PLEDGE OF THE FULL FAITH AND CREDIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(B) REQUIRED STATEMENT.

EACH BOND SHALL STATE ON ITS FACE THAT NEITHER THE STATE NOR A POLITICAL SUBDIVISION OF THE STATE IS OBLIGED TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND EXCEPT FROM REVENUES PLEDGED TO THE PAYMENT OF THE BOND.

(C) STATE OR POLITICAL SUBDIVISION NOT OBLIGATED TO PLEDGE OR IMPOSE TAX.

THE ISSUANCE OF BONDS DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR ANY POLITICAL SUBDIVISION:

(1) TO IMPOSE OR PLEDGE A TAX TO PAY THE BONDS; OR

(2) TO APPROPRIATE MONEY TO PAY THE BONDS.

(D) AUTHORITY AUTHORIZED TO PLEDGE ITS FULL FAITH AND CREDIT.

THIS SUBTITLE DOES NOT PROHIBIT AN AUTHORITY FROM PLEDGING ITS FULL FAITH AND CREDIT IN CONNECTION WITH THE ISSUANCE OF BONDS.

REVISOR'S NOTE: This section formerly was Art. 23A, § 75.

In subsection (a)(2) of this section, the reference to the "full" faith and credit is added for consistency with subsection (d) of this section and other similar provisions of the Code.

The only other changes are in style.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Revenue" § 5–401
"State" § 1–101

5–425. RATES, RENTS, AND FEES.

(A) IN GENERAL.

AN AUTHORITY MAY:

(1) IMPOSE RATES, RENTS, FEES, AND CHARGES RELATED TO A PROJECT AND FOR THE SERVICES RELATED TO A PROJECT; AND

(2) CONTRACT WITH ANY PERSON OR GOVERNMENTAL ENTITY TO EXERCISE ITS AUTHORITY UNDER THIS SECTION.

(B) IMPOSITION AND ADJUSTMENT.

THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY AN AUTHORITY UNDER THIS SECTION SHALL BE IMPOSED AND ADJUSTED SO THAT THE AGGREGATE AMOUNT OF THE RATES, RENTS, FEES, AND CHARGES FROM THE PROJECT, WHEN ADDED TO OTHER AVAILABLE MONEY, IS SUFFICIENT TO:

(1) PAY FOR THE EXPENSES OF THE PROJECT;

(2) PAY THE PRINCIPAL OF AND THE INTEREST ON THE BONDS THAT THE AUTHORITY ISSUED FOR THE PROJECT AS THEY BECOME DUE AND PAYABLE; AND

(3) CREATE AND MAINTAIN RESERVES REQUIRED OR PROVIDED FOR IN A TRUST AGREEMENT.

(C) NOT SUBJECT TO SUPERVISION OR REGULATION BY STATE.

THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY AN AUTHORITY UNDER THIS SECTION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY UNIT OF THE STATE.

REVISOR'S NOTE: This section formerly was Art. 23A, § 76.

In subsection (a)(1) of this section, the reference to "impos[ing]" rates, rents, fees, and charges is substituted for the former reference to "[f]ix[ing] and collect[ing]" rates, rents, fees, and charges for consistency with other similar provisions of the Code. Correspondingly, in the introductory language of subsection (b) of this section, the reference to rates, rents, fees, and charges "imposed" is substituted for the former reference to "fixed".

In subsection (c) of this section, the former reference to any unit of the State "other than the authority" is deleted for clarity and accuracy.

No other changes are made.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Person" § 1–101
"Project" § 5–401
"State" § 1–101
"Trust agreement" § 5–401

5–426. PLEDGE OF REVENUE.

(A) VALIDATION.

(1) ANY PLEDGE OF REVENUES AND OTHER MONEY UNDER § 5–420(I) OF THIS SUBTITLE IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

(2) (I) THE REVENUE OR MONEY THAT AN AUTHORITY PLEDGES AND RECEIVES IS SUBJECT IMMEDIATELY TO THE LIEN OF THE PLEDGE.

(II) NEITHER PHYSICAL DELIVERY OF THE REVENUE OR MONEY NOR ANY OTHER ACT IS REQUIRED TO VALIDATE THE LIEN.

(3) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY WITH A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.

(B) FILING OR RECORDATION.

THE TRUST AGREEMENT AND ANY OTHER AGREEMENT OR LEASE CREATING A PLEDGE UNDER THIS SECTION NEED NOT BE FILED OR RECORDED, EXCEPT IN THE RECORDS OF THE AUTHORITY.

REVISOR'S NOTE: This section formerly was Art. 23A, § 77.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Revenue" § 5–401
"Trust agreement" § 5–401

5–427. TRUST FUNDS.

(A) IN GENERAL.

PROCEEDS FROM THE SALE OF BONDS AND OTHER REVENUES RECEIVED UNDER THIS SUBTITLE ARE TRUST FUNDS TO BE HELD AND APPLIED SOLELY AS PROVIDED IN THIS SUBTITLE.

(B) TRUSTEE.

(1) EACH OFFICER, BANK, OR TRUST COMPANY THAT RECEIVES TRUST MONEY FROM AN AUTHORITY UNDER THIS SUBTITLE SHALL ACT AS TRUSTEE OF THE MONEY AND SHALL HOLD AND APPLY THE MONEY FOR THE PURPOSES SPECIFIED UNDER THIS SUBTITLE.

(2) THE OFFICER, BANK, OR TRUST COMPANY HOLDING MONEY IS SUBJECT TO:

(I) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; AND

(II) THE RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS OR THE TRUST AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 23A, § 78.

No changes are made.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Revenue" § 5–401
"Trust agreement" § 5–401

5–428. REFUNDING BONDS.

(A) ISSUANCE.

(1) AN AUTHORITY MAY ISSUE BONDS TO REFUND OUTSTANDING BONDS OF THE AUTHORITY, INCLUDING PAYING:

(I) ANY REDEMPTION PREMIUM;

(II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS; AND

(III) ANY PART OF THE COST OF ACQUIRING OR IMPROVING PROPERTY AS PART OF A PROJECT.

(2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE, INCLUDING:

(I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE, DIRECTLY OR THROUGH A DEBT RESTRUCTURING; OR

(II) ALLEVIATING A POTENTIAL OR ACTUAL DEFAULT.

(B) MANNER.

REFUNDING BONDS ISSUED UNDER THIS SECTION SHALL BE ISSUED IN THE SAME MANNER AND ARE SUBJECT TO THIS SUBTITLE TO THE SAME EXTENT AS ANY OTHER BOND.

(C) SERIES AND AMOUNT.

AN AUTHORITY MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

REVISOR'S NOTE: This section formerly was Art. 23A, § 79.

In subsection (a)(1)(iii) of this section, the former reference to the authority issuing bonds "[i]f considered advisable by the authority" is deleted as implicit in the statement that the authority "may" issue bonds.

The only other changes are in style.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Cost" § 5–401
"Project" § 5–401

5–429. BOND ANTICIPATION NOTES.

(A) ISSUANCE.

AN AUTHORITY MAY ISSUE NEGOTIABLE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF BONDS FOR ANY CORPORATE PURPOSE.

(B) MANNER.

BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION SHALL BE ISSUED IN THE SAME MANNER AS BONDS.

(C) PROVISIONS, CONDITIONS, OR LIMITATIONS.

BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION AND THE RESOLUTION AUTHORIZING THEM MAY CONTAIN ANY PROVISION, CONDITION, OR LIMITATION THAT MAY BE INCLUDED IN A TRUST AGREEMENT.

(D) PAYMENT OF OTHER BOND ANTICIPATION NOTES.

AN AUTHORITY MAY ISSUE BOND ANTICIPATION NOTES TO PAY ANY OTHER BOND ANTICIPATION NOTES.

(E) PAYMENT.

BOND ANTICIPATION NOTES SHALL BE PAID FROM:

(1) MONEY AVAILABLE AND NOT OTHERWISE PLEDGED;

(2) REVENUES OF THE AUTHORITY; OR

(3) THE PROCEEDS OF THE SALE OF THE BONDS IN ANTICIPATION OF WHICH THE NOTES WERE ISSUED.

REVISOR'S NOTE: This section formerly was Art. 23A, § 80.

The only changes are in style.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Revenue" § 5–401
"Trust agreement" § 5–401

5–430. CONVEYANCE OF TITLE AND RELEASE OF COLLATERAL.

(A) CONDITIONS.

AN AUTHORITY SHALL CONVEY TITLE TO PROPERTY RELATING TO A PROJECT AND RELEASE COLLATERAL IN ACCORDANCE WITH THIS SECTION WHEN:

(1) (I) THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO FINANCE OR REFINANCE THE PROJECT, INCLUDING ANY REFUNDING BONDS, HAVE BEEN FULLY PAID AND RETIRED; OR

(II) ADEQUATE PROVISION HAS BEEN MADE TO FULLY PAY AND RETIRE THE BONDS;

(2) ALL OTHER CONDITIONS OF THE TRUST AGREEMENT HAVE BEEN SATISFIED; AND

(3) THE LIEN OF THE TRUST AGREEMENT HAS BEEN RELEASED.

(B) NECESSARY ACTIONS.

ON SATISFACTION OF THE CONDITIONS UNDER SUBSECTION (A) OF THIS SECTION, AN AUTHORITY PROMPTLY SHALL EXECUTE ANY DEED, CONVEYANCE,

RELEASE, OR DOCUMENT AND TAKE ANY OTHER ACTION NECESSARY TO CONVEY TITLE TO THE PROPERTY AND RELEASE COLLATERAL FREE OF ANY LIEN OR ENCUMBRANCE CREATED THROUGH THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, §§ 81 and 52(f).

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"Project" § 5–401
"Trust agreement" § 5–401

5–431. ENFORCEMENT OF RIGHTS AND DUTIES.

(A) IN GENERAL.

A BONDHOLDER, A HOLDER OF ANY COUPONS ATTACHED TO BONDS, OR A TRUSTEE UNDER A TRUST AGREEMENT SECURING THE BONDS MAY SUE:

(1) TO PROTECT AND ENFORCE RIGHTS UNDER STATE LAW OR A TRUST AGREEMENT; AND

(2) TO ENFORCE AND COMPEL THE PERFORMANCE OF DUTIES BY AN AUTHORITY OR ITS OFFICER, EMPLOYEE, OR AGENT THAT THIS SUBTITLE OR A TRUST AGREEMENT REQUIRES, INCLUDING IMPOSING RATES, RENTS, FEES, AND CHARGES THAT THE TRUST AGREEMENT REQUIRES TO BE IMPOSED.

(B) RIGHTS SUBJECT TO TRUST AGREEMENT.

THE RIGHTS UNDER THIS SECTION ARE SUBJECT TO ANY TRUST AGREEMENT.

REVISOR'S NOTE: This section formerly was Art. 23A, § 82.

In subsection (a)(2) of this section, the reference to "imposing" rates, rents, fees, and charges is substituted for the former reference to "fixing and collecting" rates, rents, fees, and charges for consistency with other similar provisions of the Code.

No other changes are made.

Defined terms: "Authority" § 5–401
"Bond" § 5–401
"State" § 1–101
"Trust agreement" § 5–401

TITLE 6. VIOLATIONS OF ORDINANCES AND RESOLUTIONS.

6–101. VIOLATIONS PUNISHABLE AS MISDEMEANORS.

(A) IN GENERAL.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY PROVIDE THAT VIOLATIONS OF ORDINANCES AND RESOLUTIONS AUTHORIZED BY THIS DIVISION ARE PUNISHABLE AS MISDEMEANORS.

(B) PENALTY LIMITS.

A PENALTY FOR A VIOLATION OF AN ORDINANCE OR RESOLUTION THAT IS DECLARED TO BE A MISDEMEANOR UNDER THIS SECTION MAY NOT EXCEED IMPRISONMENT FOR 6 MONTHS OR A FINE OF $1,000 OR BOTH.

(C) IMPRISONMENT IN DEFAULT OF FINES AND COSTS.

SECTIONS 7–504 AND 7–505 OF THE COURTS ARTICLE SHALL GOVERN IMPRISONMENT IN DEFAULT OF FINES AND COSTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(a).

In subsection (b) of this section, the reference to "imprisonment for 6 months or a fine of $1,000 or both" is substituted for the former reference to "a fine of $1,000 and imprisonment for 6 months" for consistency with other penalty provisions in the Code.

Defined term: "Municipality" § 1–101

6–102. MUNICIPAL INFRACTIONS.

(A) IN GENERAL.

(1) UNLESS STATE LAW CLASSIFIES A VIOLATION AS A CRIMINAL OFFENSE, THE LEGISLATIVE BODY OF A MUNICIPALITY MAY PROVIDE, BY LAW, THAT A VIOLATION OF A MUNICIPAL ORDINANCE IS A MUNICIPAL INFRACTION.

(2) A MUNICIPAL INFRACTION IS A CIVIL OFFENSE.

(B) ZONING OR LAND USE ORDINANCE OR REGULATION; LITTERING.

THE LEGISLATIVE BODY OF A MUNICIPALITY MAY CLASSIFY AS A MUNICIPAL INFRACTION:

(1) A VIOLATION OF AN ORDINANCE OR REGULATION CONCERNING ZONING OR LAND USE; AND

(2) LITTERING IN THE MUNICIPALITY AS PROHIBITED UNDER § 10–110 OF THE CRIMINAL LAW ARTICLE.

(C) FINE.

(1) A FINE NOT EXCEEDING $1,000 MAY BE IMPOSED FOR EACH MUNICIPAL INFRACTION.

(2) THE FINE IS PAYABLE TO THE MUNICIPALITY BY THE PERSON CHARGED IN THE CITATION WITHIN 20 CALENDAR DAYS OF SERVICE OF THE CITATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(1) and (2).

In subsection (a)(1) of this section, the reference to the legislative body providing "by law" that a violation of a municipal ordinance is a municipal infraction is added for clarity.

Also in subsection (a)(1) of this section, the reference to "a criminal offense" is substituted for the former reference to "a felony or a misdemeanor" for brevity as the term "criminal offense" encompasses both felonies and misdemeanors.

In subsection (a)(2) of this section, the former phrase "[f]or purposes of this article" is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to an ordinance or regulation "authorized to be adopted or enacted by that municipality" is deleted as surplusage.

Defined terms: "Municipality" § 1–101
"Person" § 1–101
"State" § 1–101

6–103. CITATIONS.

(A) AUTHORITY TO SERVE.

ANY OFFICIAL AUTHORIZED BY THE LEGISLATIVE BODY OF A MUNICIPALITY TO ACT AS AN ENFORCEMENT OFFICER MAY SERVE A CITATION ON A PERSON:

(1) WHO THE OFFICIAL BELIEVES IS COMMITTING OR HAS COMMITTED A MUNICIPAL INFRACTION; OR

(2) ON THE BASIS OF AN AFFIDAVIT THAT:

(I) CITES THE FACTS OF THE ALLEGED INFRACTION; AND

(II) IS SUBMITTED TO A DESIGNATED OFFICIAL OF THE MUNICIPALITY.

(B) SERVICE.

(1) THE CITATION SHALL BE SERVED ON THE DEFENDANT:

(I) IN ACCORDANCE WITH MARYLAND RULE 3–121; OR

(II) FOR REAL PROPERTY–RELATED VIOLATIONS, IF AN AFFIDAVIT IS MADE THAT GOOD FAITH EFFORTS TO SERVE THE DEFENDANT UNDER MARYLAND RULE 3–121(A) HAVE NOT SUCCEEDED, BY:

1. REGULAR MAIL TO THE DEFENDANT'S LAST KNOWN ADDRESS; AND

2. POSTING THE CITATION AT THE PROPERTY WHERE THE MUNICIPAL INFRACTION HAS OCCURRED OR IS OCCURRING AND, IF LOCATED IN THE MUNICIPALITY, AT THE DEFENDANT'S RESIDENCE OR PLACE OF BUSINESS.

(2) THE ENFORCEMENT OFFICER SHALL RETAIN A COPY OF THE CITATION.

(C) CONTENTS.

THE CITATION SHALL CONTAIN:

(1) THE ENFORCEMENT OFFICER'S CERTIFICATION:

(I) ATTESTING TO THE TRUTH OF THE MATTER SET FORTH IN THE CITATION; OR

(II) THAT THE CITATION IS BASED ON AN AFFIDAVIT;

(2) THE NAME AND ADDRESS OF THE DEFENDANT;

(3) THE NATURE OF THE MUNICIPAL INFRACTION;

(4) THE LOCATION AND TIME THAT THE MUNICIPAL INFRACTION OCCURRED;

(5) THE AMOUNT OF THE FINE ASSESSED;

(6) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO THE MUNICIPALITY;

(7) NOTICE OF THE DEFENDANT'S RIGHT TO ELECT TO STAND TRIAL; AND

(8) NOTICE OF THE EFFECT OF FAILING TO PAY THE FINE OR DEMAND A TRIAL WITHIN THE REQUIRED TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(3).

In subsection (a)(2)(ii) of this section, the reference to a "designated" official is substituted for the former reference to an official "to be named by the municipality" for brevity.

Also in subsection (a)(2)(ii) of this section, the former reference to an "appropriate" official is deleted as implicit in the reference to a "designated" official.

In the introductory language of subsection (b)(1)(ii) of this section, the former reference to "proof" being made by affidavit is deleted as surplusage.

In subsection (b)(1)(ii)2 of this section and throughout this subtitle, the references to a "municipal" infraction are added for clarity.

In subsection (c) of this section and throughout this subtitle, the references to the "defendant" are substituted for the former references to "person charged" and "person" for clarity and consistency with other similar provisions of the Code.

In subsection (c)(7) and (8) of this section, the phrase "notice of" is added for clarity.

In subsection (c)(7) of this section, the former reference to standing trial "for the infraction" is deleted as surplusage.

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

6–104. SUMMONS.

(A) REQUIREMENT TO APPEAR.

AN ENFORCEMENT OFFICER MAY SERVE A SUMMONS WITH A CITATION THAT:

(1) REQUIRES THE DEFENDANT TO APPEAR IN DISTRICT COURT AT A SPECIFIED DATE AND TIME; AND

(2) SPECIFIES THAT THE DEFENDANT IS NOT REQUIRED TO APPEAR IN DISTRICT COURT IF THE FINE IS PAID AS PROVIDED IN THE CITATION.

(B) CITATION MAY CONTAIN SUMMONS.

IF APPROVED BY THE CHIEF JUDGE OF THE DISTRICT COURT OF MARYLAND, THE CITATION FORM MAY CONTAIN THE SUMMONS.

(C) COORDINATION OF COURT DATES.

THE ENFORCEMENT OFFICER SHALL COORDINATE THE SELECTION OF COURT DATES WITH THE APPROPRIATE DISTRICT COURT OFFICIALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(6)(i).

6–105. ELECTION TO STAND TRIAL.

(A) WRITTEN NOTICE.

IF A CITATION IS SERVED WITHOUT A SUMMONS, THE DEFENDANT MAY ELECT TO STAND TRIAL FOR THE MUNICIPAL INFRACTION BY PROVIDING WRITTEN NOTICE OF INTENT TO STAND TRIAL TO THE MUNICIPALITY AT LEAST 5 DAYS BEFORE THE PAYMENT DATE SPECIFIED IN THE CITATION.

(B) SCHEDULING PROCEDURE.

(1) AFTER RECEIVING THE WRITTEN NOTICE OF INTENTION TO STAND TRIAL, THE MUNICIPALITY SHALL FORWARD A COPY OF THE CITATION AND NOTICE TO THE DISTRICT COURT HAVING VENUE.

(2) AFTER RECEIVING THE CITATION AND NOTICE, THE DISTRICT COURT SHALL:

(I) SCHEDULE THE CASE FOR TRIAL; AND

(II) NOTIFY THE DEFENDANT OF THE TRIAL DATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(4).

Defined term: "Municipality" § 1–101

6–106. CITATION — FAILURE TO PAY OR ELECT TO STAND TRIAL.

(A) IN GENERAL.

IF THE DEFENDANT DOES NOT PAY THE FINE BY THE DATE OF PAYMENT SET FORTH ON THE CITATION AND DOES NOT SEND TO THE MUNICIPALITY THE WRITTEN NOTICE OF INTENT TO STAND TRIAL:

(1) THE DEFENDANT IS LIABLE FOR THE FINE;

(2) THE MUNICIPALITY MAY DOUBLE THE FINE TO AN AMOUNT NOT EXCEEDING $1,000 AND REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT, INCLUDING THE FILING OF A DEMAND FOR JUDGMENT ON AFFIDAVIT; AND

(3) THE DISTRICT COURT PROMPTLY SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(B) ENTRY OF JUDGMENT FOR FAILURE TO RESPOND.

IF THE MUNICIPALITY MAKES A PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT AND THE DEFENDANT DOES NOT RESPOND TO A SUMMONS ISSUED UNDER SUBSECTION (A)(3) OF THIS SECTION, THE DISTRICT COURT SHALL ENTER JUDGMENT AGAINST THE DEFENDANT IN FAVOR OF THE MUNICIPALITY IN THE AMOUNT THEN DUE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(5).

In subsection (b) of this section, the reference to "the District Court" entering judgment is added for clarity.

Also in subsection (b) of this section, the reference to "the municipality" making a demand for judgment is added for clarity.

Defined term: "Municipality" § 1–101

6–107. SUMMONS — FAILURE TO PAY OR APPEAR.

IF THE DEFENDANT DOES NOT PAY THE FINE AS PROVIDED IN THE CITATION AND DOES NOT APPEAR IN DISTRICT COURT AS PROVIDED IN THE SUMMONS:

(1) THE MUNICIPALITY MAY DOUBLE THE FINE TO AN AMOUNT NOT EXCEEDING $1,000; AND

(2) THE COURT MAY ENTER JUDGMENT AGAINST THE DEFENDANT IN THE AMOUNT THEN DUE IF THE PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT HAS BEEN MADE.

REVISOR'S NOTE: This section formerly was Art. 23A, § 3(b)(6)(ii).

The only changes are in style.

Defined term: "Municipality" § 1–101

6–108. PROSECUTION OF MUNICIPAL INFRACTIONS.

(A) AUTHORITY OF STATE'S ATTORNEY.

THE STATE'S ATTORNEY FOR A COUNTY MAY:

(1) PROSECUTE A MUNICIPAL INFRACTION; AND

(2) (I) ENTER A NOLLE PROSEQUI; OR

(II) PLACE A MUNICIPAL INFRACTION CASE ON THE STET DOCKET.

(B) DESIGNATION OF ATTORNEY.

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A MUNICIPALITY MAY DESIGNATE AN ATTORNEY TO PROSECUTE A MUNICIPAL INFRACTION IN THE SAME MANNER AS THE STATE'S ATTORNEY FOR A COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(14) and (15).

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

6–109. PROCEEDINGS.

(A) IN GENERAL.

IN A MUNICIPAL INFRACTION PROCEEDING:

(1) THE DISTRICT COURT SHALL CONFIRM THAT THE DEFENDANT HAS RECEIVED A COPY OF AND UNDERSTANDS THE CHARGES;

(2) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY;

(3) THE DISTRICT COURT SHALL APPLY THE EVIDENTIARY STANDARDS PROVIDED BY LAW OR RULE FOR THE TRIAL OF A CIVIL CASE;

(4) THE DEFENDANT MAY:

(I) CROSS–EXAMINE WITNESSES;

(II) PRODUCE EVIDENCE OR WITNESSES ON THE DEFENDANT'S OWN BEHALF;

(III) TESTIFY; AND

(IV) BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S CHOICE AND AT THE DEFENDANT'S EXPENSE; AND

(5) THE MUNICIPALITY HAS THE BURDEN TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT HAS COMMITTED THE INFRACTION.

(B) VERDICT.

THE DISTRICT COURT MAY:

(1) ENTER A VERDICT OF GUILTY OR NOT GUILTY; OR

(2) BEFORE ENTERING A VERDICT, PLACE THE DEFENDANT ON PROBATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(12).

In subsection (a)(1) of this section, the former reference to charges "against the defendant" is deleted as surplusage.

In subsection (a)(2) of this section, the former reference to pleading guilty "of the infraction as charged," is deleted as surplusage.

In subsection (a)(4)(i) of this section, the former reference to witnesses "who appear against the defendant" is deleted as implicit in the reference to "cross–examin[ing]" witnesses.

In subsection (a)(4)(iii) of this section, the former reference to testifying "in the defendant's own behalf, if the defendant elects to do so" is deleted as implicit in the defendant's right to testify.

In subsection (b)(1) of this section, the former references to a verdict of guilty or not guilty "of a municipal infraction" are deleted as surplusage.

In subsection (b)(2) of this section, the reference to "entering a verdict" is substituted for the former reference to "rendering judgment" for consistency with other similar provisions of the Code.

Defined term: "Municipality" § 1–101

6–110. PENALTIES.

IF THE DISTRICT COURT FINDS THAT THE DEFENDANT HAS COMMITTED A MUNICIPAL INFRACTION:

(1) (I) THE COURT SHALL ORDER THE DEFENDANT TO PAY THE FINE, INCLUDING ANY DOUBLING OF THE FINE, NOT EXCEEDING THE LIMIT UNDER § 6–102(C) OF THIS SUBTITLE;

(II) THE FINE IMPOSED IS A JUDGMENT IN FAVOR OF THE MUNICIPALITY; AND

(III) IF THE FINE REMAINS UNPAID FOR 30 DAYS AFTER THE JUDGMENT IS ENTERED, THE JUDGMENT IS ENFORCEABLE IN THE SAME MANNER AND TO THE SAME EXTENT AS OTHER CIVIL JUDGMENTS FOR MONEY UNLESS THE COURT HAS SUSPENDED OR DEFERRED THE PAYMENT OF THE FINE AS PROVIDED UNDER ITEM (2) OF THIS SECTION;

(2) THE COURT MAY SUSPEND OR DEFER THE PAYMENT OF THE FINE UNDER CONDITIONS THAT THE COURT SETS;

(3) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE COURT PROCEEDINGS; AND

(4) THE COURT MAY ORDER THE DEFENDANT TO ABATE THE INFRACTION OR ENTER AN ORDER AUTHORIZING THE MUNICIPALITY TO ABATE THE INFRACTION AT THE DEFENDANT'S EXPENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(7).

Defined term: "Municipality" § 1–101

6–111. ABATEMENT OF INFRACTION BY MUNICIPALITY.

(A) DEFENDANT TO BE BILLED FOR COST.

IF A MUNICIPALITY ABATES AN INFRACTION UNDER A DISTRICT COURT ORDER, THE MUNICIPALITY SHALL PRESENT THE DEFENDANT WITH A BILL FOR THE COST OF ABATEMENT BY:

(1) REGULAR MAIL TO THE DEFENDANT'S LAST KNOWN ADDRESS; OR

(2) ANY OTHER MEANS THAT ARE REASONABLY CALCULATED TO GIVE NOTICE OF THE BILL TO THE DEFENDANT.

(B) JUDGMENT.

IF THE DEFENDANT DOES NOT PAY THE BILL WITHIN 30 DAYS AFTER IT IS PRESENTED UNDER SUBSECTION (A) OF THIS SECTION, ON A MOTION OF THE MUNICIPALITY, THE DISTRICT COURT SHALL ENTER A JUDGMENT AGAINST THE DEFENDANT FOR THE COST OF THE ABATEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(8).

Defined term: "Municipality" § 1–101

6–112. COURT COSTS.

(A) IN GENERAL.

COURT COSTS IN A MUNICIPAL INFRACTION PROCEEDING IN WHICH COSTS ARE IMPOSED ARE $5.

(B) CRIMINAL INJURIES COMPENSATION FUND.

A DEFENDANT IS NOT LIABLE FOR PAYMENT TO THE CRIMINAL INJURIES COMPENSATION FUND.

REVISOR'S NOTE: This section formerly was Art. 23A, § 3(b)(13).

The only changes are in style.

6–113. FINES, PENALTIES, OR FORFEITURES REMITTED TO MUNICIPALITY.

ALL FINES, PENALTIES, OR FORFEITURES COLLECTED BY THE DISTRICT COURT FOR A MUNICIPAL INFRACTION SHALL BE REMITTED TO THE MUNICIPALITY IN WHICH THE INFRACTION OCCURRED.

REVISOR'S NOTE: This section formerly was Art. 23A, § 3(b)(9).

No changes are made.

Defined term: "Municipality" § 1–101

6–114. CONTEMPT OF COURT.

IF, WITHOUT GOOD CAUSE, A DEFENDANT DOES NOT PAY A FINE OR COST IMPOSED BY THE DISTRICT COURT, THE COURT MAY TREAT THE FAILURE AS CONTEMPT OF COURT.

REVISOR'S NOTE: This section formerly was Art. 23A, § 3(b)(10).

The only changes are in style.

6–115. ADJUDICATION NOT A CRIMINAL CONVICTION.

ADJUDICATION OF A MUNICIPAL INFRACTION IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 3(b)(11).

The former reference to a municipal infraction "as defined in paragraph (1) of this subsection" is deleted as surplusage.

The former reference to an adjudication of a municipal infraction not "impos[ing] any of the civil disabilities ordinarily imposed by a criminal conviction" is deleted as included in the reference to an adjudication of a municipal infraction not being "a criminal conviction for any purpose".

TITLE 7. RESERVED.

TITLE 8. RESERVED.

DIVISION III. COUNTIES.

TITLE 9. GENERAL AND ADMINISTRATIVE PROVISIONS.

SUBTITLE 1. IN GENERAL.

9–101. MEETINGS OF COUNTY GOVERNING BODIES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO ALL COUNTIES.

(B) OPEN MEETINGS REQUIRED.

THE GOVERNING BODY OF A COUNTY MAY NOT ADOPT AN ORDINANCE, A RESOLUTION, A RULE, OR A REGULATION AT A MEETING NOT OPEN TO THE PUBLIC, EXCEPT IN ACCORDANCE WITH THE OPEN MEETINGS ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 5 and, as it related to Baltimore City, Art. 23A, § 8.

In subsection (b) of this section, the reference to not adopting an ordinance, resolution, rule, or regulation "except in accordance with the Open Meetings Act" is substituted for the former references to "[a]ll meetings, regular and special, … shall be public meetings and open to the public at all times" and "[n]othing contained herein shall be construed to

prevent any such body from holding an executive session from which the public is excluded" in light of an opinion of the Attorney General, 94 Op. Atty. Gen. Md. 161 (2009), which states that the provisions of Art. 23A, § 8 and Art. 25, § 5 are largely duplicative of the Open Meetings Act, except that certain resolutions that fall within the definition of an administrative function would not be covered under the Open Meetings Act but would be included under Art. 23A, § 8 and Art. 25, § 5.

Also in subsection (b) of this section, the former references to a "finally" adopted ordinance, resolution, rule, or regulation are deleted as surplusage.

For provisions governing open meetings, *see* Title 10, Subtitle 5 of the State Government Article.

Defined terms: "County" § 1–101
"Governing body" § 1–101

9–102. COPIES OF PUBLIC LOCAL LAWS.

IF THE COUNTY COMMISSIONERS OR COUNTY COUNCIL OF A COUNTY PUBLISHES A CODE OR COMPILATION THAT CONTAINS ALL OR PART OF THE PUBLIC LOCAL LAWS OF THE COUNTY, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL SHALL PROVIDE WITHOUT CHARGE:

(1) ONE PRINTED COPY TO THE STATE ARCHIVES;

(2) ONE PRINTED COPY TO THE STATE LAW LIBRARY; AND

(3) FIVE PRINTED COPIES TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 32A, Art. 25A, § 7(h), and Art. 25B, § 12(h).

In the introductory language of this section, the former references to "issu[ing] in printed, mimeographed[,] or similar duplicated form" are deleted as included in the reference to "publish[ing]".

Defined term: "County" § 1–101

9–103. BALTIMORE CITY — PUBLICATION OF CODE OF ORDINANCES.

(A) "ORDINANCE" DEFINED.

IN THIS SECTION, "ORDINANCE":

(1) MEANS A LEGISLATIVE ENACTMENT OF GENERAL APPLICATION AND CONTINUING FORCE FOR BALTIMORE CITY; AND

(2) DOES NOT INCLUDE A PUBLIC LOCAL LAW UNDER § 9–102 OF THIS SUBTITLE.

(B) WHEN PUBLICATION REQUIRED.

EACH YEAR, IF BALTIMORE CITY ENACTS ANY ORDINANCE APPROPRIATE FOR CODIFICATION DURING THE YEAR, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL PROVIDE FOR THE PREPARATION AND DISTRIBUTION OF A SUPPLEMENT TO OR NEW EDITION OF ITS CODE OF ORDINANCES.

(C) REQUIRED CONTENTS.

(1) A SUPPLEMENT PUBLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL CONTAIN EACH ORDINANCE THAT IS IN EFFECT AND HAS BEEN ENACTED OR AMENDED SINCE BALTIMORE CITY'S MOST RECENT CODE OF ORDINANCES WAS PUBLISHED.

(2) A NEW CODE PUBLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL CONTAIN EACH ORDINANCE THAT IS IN EFFECT AT THE TIME OF PUBLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 17D(a), (b), and, as it related to Baltimore City, (c).

In this section, the references to "Baltimore City" are substituted for the former references to "municipal corporation" to reflect that this provision is revised to apply only to Baltimore City.

In subsection (a)(1) of this section, the former reference to legislative enactment "(by whatever name known)" is deleted as surplusage.

In subsection (b) of this section, the former phrase "[f]or the purpose of providing ready access to a current compilation of the municipal corporation's ordinances," is deleted as surplusage.

Also in subsection (b) of this section, the former references to "editing" and "publication" of the code are deleted as included in the reference to "preparation" of the code.

Also in subsection (b) of this section, the former reference to "sale" of the code is deleted as included in the reference to "distribution" of the code.

Also in subsection (b) of this section, the former reference to the "most recent" code of ordinances is deleted as implicit in the requirement to distribute any ordinances enacted during that year.

In subsection (c) of this section, the references to a supplement and new code "published under subsection (b) of this section" are added for clarity.

Also in subsection (c) of this section, the former statement that "[a] supplement or a code need not contain ordinances of less than general application and continuing force, including (without limitation) the budget ordinance" is deleted as unnecessary in light of the definition of "ordinance" in subsection (a) of this section.

Also in subsection (c) of this section, the former reference to public ordinances in effect "for the municipal corporation" is deleted as implicit in that this section applies only to Baltimore City.

In subsection (c)(1) of this section, the reference to "Baltimore City's" most recent code of public ordinances is added for clarity.

As for provisions governing municipal corporations, *see* § 4–110 of this article.

9–104. POWERS OF GOVERNING BODY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO ALL COUNTIES, EXCEPT BALTIMORE CITY.

(B) APPOINTMENTS.

THE GOVERNING BODY OF A COUNTY MAY APPOINT ALL OFFICERS, AGENTS, AND EMPLOYEES REQUIRED FOR A COUNTY PURPOSE AND NOT OTHERWISE PROVIDED FOR BY LAW.

(C) AUTHORITY OVER COUNTY PROPERTY.

THE GOVERNING BODY OF A COUNTY CONTROLS PROPERTY OWNED BY THE COUNTY.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of this section. Baltimore City is excluded because former Art. 25A, § 4 and Art. 25B, § 13 made the powers granted in Art.

25, § 1–1 applicable to commission counties, code counties, and charter counties. There is no similar grant of power for Baltimore City in the Annotated Code.

Subsections (b) and (c) of this section are new language derived without substantive change from the first sentence of former Art. 25, § 1–1 and, as it related to the authority of the governing body of a county to control property, the second sentence.

In subsection (b) of this section, the former reference to the "Constitution" is deleted as included in the reference to "law".

Also in subsection (b) of this section, the former reference to "road supervisors, collectors of taxes, trustees of the poor, [and] a clerk to their board" is deleted as unnecessary in light of the reference to "officers, agents, and employees".

In subsection (c) of this section, the former reference to the governing body of a county having "charge of" county property is deleted as included in the reference to the governing body "control[ling]" county property.

Defined terms: "County" § 1–101
"Governing body" § 1–101

9–105. ADOPTION OF LOCAL LAWS BY COUNTY COMMISSIONERS AFTER PUBLIC HEARING.

(A) SCOPE OF SECTION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES ONLY TO COMMISSION COUNTIES.

(2) THIS SECTION DOES NOT APPLY TO CECIL COUNTY.

(B) APPLICATION OF SECTION.

(1) THIS SECTION APPLIES ONLY TO A SECTION OF THIS ARTICLE THAT SPECIFICALLY REFERENCES THIS SECTION.

(2) THIS SECTION DOES NOT APPLY TO A RESOLUTION EXPRESSING THE OPINION OR AN ADMINISTRATIVE ACT OF THE COUNTY COMMISSIONERS OF FREDERICK COUNTY, ST. MARY'S COUNTY, OR SOMERSET COUNTY.

(C) ADOPTION OF ACTS, ORDINANCES, OR RESOLUTIONS AFTER PUBLIC HEARING.

(1) THE COUNTY COMMISSIONERS MAY NOT ADOPT AN ACT, AN ORDINANCE, OR A RESOLUTION UNTIL 10 DAYS AFTER A PUBLIC HEARING HAS BEEN HELD ON THE PROPOSED ACT, ORDINANCE, OR RESOLUTION.

(2) THE COUNTY COMMISSIONERS SHALL PUBLISH NOTICE OF THE PUBLIC HEARING AND A SUMMARY OF THE PROPOSED ACT, ORDINANCE, OR RESOLUTION IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY ONCE EACH WEEK FOR 2 SUCCESSIVE WEEKS.

REVISOR'S NOTE: Subsections (a), (b)(2), and (c) of this section are new language derived without substantive change from the first through third sentences of former Art. 25, § 3(r) and, as it related to the scope of this section, (a).

Subsection (b)(1) of this section is new language added to reflect that provisions of former Art. 25, § 3, to which this section applies, have been revised throughout this article. Each of those separate provisions of former Art. 25, § 3, include a cross–reference to this section to indicate that this section applies to that provision.

In subsection (b)(2) of this section, the former reference to "Dorchester County" is deleted because Dorchester County became a charter county in 2002.

Also in subsection (b)(2) of this section, the former statement that "a resolution, other than a bond resolution adopted under § 15 of Article 25B of the Code, adopted by the county commissioners of a county that has adopted home rule powers under Article XI–F of the Maryland Constitution" is deleted as unnecessary because this section only applies to commission counties.

In subsection (c)(1) of this section, the former reference to an act, an ordinance, or a resolution adopted "under the powers conferred by this section" is deleted as unnecessary in light of the applicability provision in subsection (b) of this section.

In subsection (c)(2) of this section, the former reference to a "fair" summary is deleted as surplusage.

The fourth sentence of former Art. 25, § 3(r), which defined "ordinance" and "resolution" for this section, is deleted as unnecessary because the definitions use the commonly understood meanings of the terms.

Defined term: "Commission county" § 1–101

9–106. ACTS, ORDINANCES, AND RESOLUTIONS — GENERALLY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO COMMISSION COUNTIES.

(B) APPLICATION OF SECTION.

THIS SECTION APPLIES ONLY TO A SECTION OF THIS ARTICLE THAT SPECIFICALLY REFERENCES THIS SECTION.

(C) FILING AND RECORDING OF ACTS, ORDINANCES, AND RESOLUTIONS.

(1) A COPY OF EACH ACT, ORDINANCE, OR RESOLUTION ADOPTED BY THE COUNTY COMMISSIONERS, CERTIFIED BY THE PRESIDING OFFICER OF THE COUNTY COMMISSIONERS AND ATTESTED TO BY THE CLERK OF THE COUNTY COMMISSIONERS, SHALL BE FILED WITH THE CLERK OF THE COURT OF THE COUNTY.

(2) THE CLERK OF THE COURT SHALL RECORD, DATE, AND INDEX THE ACT, ORDINANCE, OR RESOLUTION WITHOUT CHARGE IN A VOLUME PROVIDED BY THE COUNTY COMMISSIONERS.

(D) EFFECTIVE DATE OF ACTS, ORDINANCES, AND RESOLUTIONS.

AN ACT, AN ORDINANCE, OR A RESOLUTION ADOPTED BY THE COUNTY COMMISSIONERS MAY NOT TAKE EFFECT UNTIL:

(1) A COPY HAS BEEN FILED WITH THE CLERK OF THE COURT OF THE COUNTY; AND

(2) A FAIR SUMMARY OF THE ACT, ORDINANCE, OR RESOLUTION HAS BEEN PUBLISHED IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY.

(E) ADMISSIBILITY OF FILED ACTS, ORDINANCES, AND RESOLUTIONS AS EVIDENCE IN LEGAL PROCEEDINGS.

AN ACT, AN ORDINANCE, OR A RESOLUTION FILED IN ACCORDANCE WITH THIS SECTION SHALL BE ADMISSIBLE AS EVIDENCE IN ANY COURT PROCEEDING ON CERTIFICATION BY THE CLERK OF THE COURT OF THE COUNTY.

REVISOR'S NOTE: Subsections (a) and (c) through (e) of this section are new language derived without substantive change from former Art. 25, § 4(a), (b), and (c).

Subsection (b) of this section is new language added to reflect that provisions of former Art. 25, § 3, to which this section applies, have been revised throughout this article. Each of those separate provisions of former Art. 25, § 3, include a cross–reference to this section to indicate that this section applies to that provision.

In subsections (c) and (d) of this section, the former references to local laws enacted "under the authority of § 3 of this article" are deleted as unnecessary in light of the applicability provision in subsection (b) of this section.

In subsection (c)(1) of this section, the reference to the "presiding officer" of the county commissioners is substituted for the former reference to the "president" of the county commissioners for clarity because some boards have a chair, not a president.

Former Art. 25, § 4(d), which related to the recording and indexing of ordinances, resolutions, and regulations in Dorchester County, is deleted as obsolete because Dorchester County became a charter county in 2002 and the duties required under this subsection do not apply to charter counties.

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

9–107. ADVERTISING, PRINTING, AND PUBLISHING OF ENACTMENTS AND ANNUAL STATEMENTS; RECORDING AND INDEXING OF RECORDS; AUDIT OF COUNTY BOOKS AND ACCOUNTS REQUIRED.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO ALL COUNTIES EXCEPT:

(1) ANNE ARUNDEL COUNTY;

(2) BALTIMORE CITY;

(3) BALTIMORE COUNTY;

(4) CECIL COUNTY;

(5) HOWARD COUNTY;

(6) PRINCE GEORGE'S COUNTY;

(7) QUEEN ANNE'S COUNTY; AND

(8) WORCESTER COUNTY.

(B) APPLICATION OF OTHER SECTIONS.

THE PROVISIONS OF §§ 9–105 AND 9–106 OF THIS SUBTITLE APPLY TO AN ACT, AN ORDINANCE, OR A RESOLUTION ADOPTED BY A COMMISSION COUNTY UNDER THIS SECTION.

(C) ADVERTISEMENT, PRINTING, AND PUBLICATION OF LAWS, ORDINANCES, RESOLUTIONS, REGULATIONS, AND ANNUAL STATEMENTS.

THE GOVERNING BODY OF A COUNTY MAY PROVIDE FOR ADVERTISING, PRINTING, AND PUBLISHING OF:

(1) LAWS, ORDINANCES, RESOLUTIONS, OR REGULATIONS ADOPTED BY THE COUNTY; AND

(2) THE ANNUAL STATEMENTS OF RECEIPTS AND EXPENDITURES OF THE COUNTY.

(D) RECORDING AND INDEXING.

THE GOVERNING BODY OF A COUNTY MAY PROVIDE FOR THE RECORDING AND INDEXING OF RECORDS IN THE OFFICE OF THE CLERK OF THE COURT, REGISTER OF WILLS, THE GOVERNING BODY, AND OTHER OFFICERS TO THE EXTENT THAT THE RECORDING AND INDEXING ARE NOT PROVIDED FOR BY GENERAL LAW.

(E) AUDIT OF COUNTY BOOKS AND ACCOUNTS REQUIRED.

THE GOVERNING BODY OF A COUNTY SHALL:

(1) APPOINT AN AUDITOR OR ACCOUNTANT WITHIN 30 DAYS AFTER THE CLOSE OF THE FISCAL YEAR TO AUDIT THE BOOKS AND ACCOUNTS OF ALL COUNTY OFFICERS COLLECTING, HOLDING, OR DISBURSING COUNTY FUNDS; AND

(2) PUBLISH OR ADVERTISE THE REPORT OF THE AUDITOR OR ACCOUNTANT IMMEDIATELY AFTER ITS COMPLETION TO THE EXTENT THAT THE GOVERNING BODY CONSIDERS PROPER.

REVISOR'S NOTE: Subsections (a), (c), (d), and (e) of this section are new language derived without substantive change from former Art. 25, § 3(j) and (m) and, as it is related to the scope of this section, (a).

In subsection (a) of this section, the reference to "Baltimore City" is added because former Art. 25, § 3(a), Art. 25A, § 4, and Art. 25B, § 13 made the powers granted in Art. 25, § 3(j) applicable to commission counties, code counties, and charter counties, except for the counties specifically excluded under former Art. 25, § 3(a)(2). There is no similar grant of power for Baltimore City in the Annotated Code.

Subsection (b) of this section is new language added to clarify that the provisions of §§ 9–105 and 9–106 of this article, former Art. 25, § 3(r) and § 4, which apply to any act, ordinance, or resolution enacted by a commission county under the provisions of former Art. 25, § 3 of the Code, apply to an act, an ordinance, or a resolution adopted by a commission county under this section.

In subsection (d) of this section and the introductory language of subsection (c) of this section, the references to the "governing body of a county" are added for clarity.

Defined terms: "County" § 1–101
"Governing body" § 1–101

9–108. JURISDICTION AND SERVICE OF PROCESS ON NAVIGABLE RIVERS.

(A) JURISDICTION.

EXCEPT WHERE A DIVIDING LINE IS FIXED IN A RIVER BY LAW, THE JURISDICTION OF A COUNTY LYING ON A NAVIGABLE RIVER IN THIS STATE EXTENDS FROM THE SHORE TO THE CHANNEL OF THE RIVER DIVIDING THE COUNTY FROM ANOTHER COUNTY.

(B) SERVICE OF PROCESS.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF A VESSEL IS LOCATED ON A RIVER BETWEEN COUNTIES, PROCESS MAY BE SERVED ON BOARD THE VESSEL BY AN OFFICER OF EITHER COUNTY.

(C) MOORED VESSELS.

A VESSEL THAT IS MOORED OR FASTENED TO THE LAND ON EITHER SIDE OF A RIVER IS CONSIDERED TO BE IN THE COUNTY WHERE THE VESSEL IS FASTENED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 75, § 81.

In subsection (b) of this section, the former references to a "ship" are deleted as included in the references to a "vessel".

Also in subsection (b) of this section, the former reference to process being served by an officer of either county "that can first serve it" is deleted as surplusage.

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

9–109. JURISDICTION AND SERVICE OF PROCESS ON NAVIGABLE WATERS OTHER THAN RIVERS.

(A) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY IF THE BOUNDARY BETWEEN COUNTIES IS A NAVIGABLE RIVER.

(B) IN GENERAL.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE JURISDICTION OF A COUNTY BOUNDED AT ANY POINT BY NAVIGABLE WATERS EXTENDS FROM THE SHORE TO THE INSIDE OF THE CHANNEL, WHICH IS CONSIDERED THE CENTER OF THE WATERS.

(2) IF THE NAVIGABLE WATERS JOIN A NEIGHBORING STATE, THE JURISDICTION OF THE COUNTY CONTINUES TO THE ULTIMATE LIMIT OF THE STATE.

(C) COUNTY MAPS.

(1) THE CENTER OF WATERS IN SUBSECTION (B) OF THIS SECTION SHALL BE AS REPRESENTED ON THE COUNTY MAPS ISSUED UNDER THE AUTHORITY OF CHAPTER 51, ACTS OF 1896 AND CHAPTER 129, ACTS OF 1898.

(2) A COUNTY MAP REFERRED TO IN PARAGRAPH (1) OF THIS SUBSECTION IS ADMISSIBLE AS EVIDENCE OF THE LOCATION OF COUNTY BOUNDARIES.

(D) CERTIFIED COPIES OF COUNTY MAPS.

(1) CERTIFIED COPIES OF COUNTY MAPS ISSUED UNDER SUBSECTION (C)(1) OF THIS SECTION SHALL BE KEPT ON FILE WITH:

(I) THE CLERK OF THE COURT FOR EACH COUNTY; AND

(II) THE GOVERNING BODY OF EACH COUNTY.

(2) CERTIFIED COPIES OF COUNTY MAPS ARE OFFICIAL AND AUTHORITATIVE.

(E) EFFECT OF SECTION.

NOTHING IN THIS SECTION CHANGES THE RIGHTS THE STATE MAY HAVE ON OR UNDER THE WATERS DESCRIBED IN THIS SECTION.

REVISOR'S NOTE: Subsection (a) of this section is new language added for clarity. The distinction between counties divided by navigable rivers and navigable waters is set forth in *Department of Natural Resources v. France*, 277 Md. 432, 463 (1976).

Subsections (b) through (e) of this section are new language derived without substantive change from former Art. 75, §§ 82, 83, and 84.

In the introductory language of subsection (d)(1) of this section, the reference to maps being "kept on file" is substituted for the former reference to maps being "filed" to reflect the fact that many of the maps will have already been filed since this section was first enacted.

Defined terms: "County" § 1–101
"Governing body" § 1–101
"State" § 1–101

9–110. FREDERICK COUNTY IS REGION OF STATE.

FREDERICK COUNTY IS A REGION OF THE STATE AND SHALL BE TREATED AS A REGION BY ALL UNITS OF STATE GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 221.

The reference to "units of State government" is substituted for the former reference to all "State departments, agencies, and instrumentalities" for brevity. *See* General Revisor's Note to article.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that this section no longer seems to serve a purpose and the General Assembly may wish to consider its deletion.

Defined term: "State" § 1–101

9–111. ALLEGANY COUNTY — OFFICE HOURS.

THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY MAY DIRECT THAT ANY OFFICE UNDER THE CONTROL OF THE COUNTY COMMISSIONERS BE CLOSED FOR BUSINESS ON SATURDAYS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 5A.

The former reference to the county commissioners "in every county in which this section applies" is deleted as unnecessary because this section applies only in Allegany County.

The former reference to "the office of the clerk of the county commissioners" is deleted as included in the reference to "any office under the control of the county commissioners".

The former reference to the "transaction of" business is deleted as surplusage.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that there is no requirement that an office under the control of the County Commissioners of Allegany County be open for business on Saturdays. The General Assembly may wish to consider deleting this section as unnecessary.

9–112. MERIDIAN LINE.

(A) ESTABLISHMENT.

(1) THE GOVERNING BODY OF EACH COUNTY MAY ERECT TWO PILLARS 100 FEET APART ON THE SAME MERIDIAN LINE IN A PUBLIC SPOT ADJACENT TO THE COUNTY COURTHOUSE OF EACH COUNTY.

(2) THERE SHALL BE A DISTINCTLY VISIBLE NEEDLE POINT ON THE TOP OF ONE OF THE PILLARS AND A HAIR SIGHT ON TOP OF THE OTHER PILLAR SO THAT A STRAIGHT LINE PASSING THROUGH ITS CENTER AND THE CENTER OF THE NEEDLE POINT WOULD BE ON THE TRUE MERIDIAN LINE RUNNING NORTH AND SOUTH.

(3) THE NEEDLE POINT AND HAIR SIGHT REQUIRED UNDER THIS SUBSECTION SHALL BE PROPERLY ENCLOSED AND PROTECTED.

(B) THE MERIDIAN OF WASHINGTON, D.C.

(1) THE GOVERNING BODY OF THE COUNTY MAY:

(I) DETERMINE THE ACCURATE LATITUDE AND LONGITUDE OF THE PILLARS ERECTED UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) MARK THE LATITUDE AND LONGITUDE ON ONE OF THE PILLARS IN DEGREES, MINUTES, SECONDS, AND PARTS OF SECONDS.

(2) THE LONGITUDE SHALL BE DETERMINED FROM THE MERIDIAN OF WASHINGTON, D.C.

(C) USE.

(1) THE PILLARS AND ENCLOSURES ARE UNDER THE CUSTODY OF THE COUNTY CLERK.

(2) THE PILLARS AND ENCLOSURES SHALL BE MADE AVAILABLE TO ANY SURVEYOR OR CIVIL ENGINEER RESIDING OR ENGAGED IN SURVEYING IN THE COUNTY FOR THE PURPOSE OF:

(I) TESTING COMPASS VARIATIONS; AND

(II) VERIFYING THE MERIDIAN LINE WHEN REQUIRED BY ORDER OF THE CIRCUIT COURT FOR THE COUNTY.

(D) TESTING BY SURVEYORS; RECORDATION OF VARIANCES.

(1) IF A COUNTY HAS ERECTED PILLARS UNDER THIS SECTION, A SURVEYOR WHO SURVEYS LAND IN THE COUNTY SHALL ANNUALLY TEST THE SURVEYOR'S COMPASS AND NOTE THE VARIATION OF THE COMPASS FROM THE MERIDIAN LINE IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION.

(2) (I) THE SURVEYOR SHALL RECORD IN THE COUNTY WHERE THE SURVEYOR RESIDES THE RESULTS OF THE TEST, INCLUDING:

1. THE DATE AND TIME OF THE TEST; AND

2. AN AFFIDAVIT VERIFYING THE CORRECTNESS OF THE RESULTS.

(II) THE TEST RESULTS SHALL BE RECORDED IN A BOOK KEPT FOR THE PURPOSE OF RECORDING SUCH RESULTS.

(3) A SURVEYOR WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A FINE OF $50 AND COURT COSTS.

(4) A FINE IMPOSED UNDER THIS SUBSECTION MAY BE USED AS DIRECTED BY THE GOVERNING BODY OF THE COUNTY.

(E) FEES OF COUNTY CLERK.

(1) THE COUNTY CLERK MAY CHARGE A FEE FOR:

(I) RECORDING A CERTIFICATE OF VARIATION;

(II) RECORDING AN AFFIDAVIT OF CORRECTNESS;

(III) PROVIDING COPIES OR ABSTRACTS OF CERTIFICATES OF VARIATION OR AFFIDAVITS OF CORRECTNESS; AND

(IV) PROVIDING CERTIFICATES AND SEALS REGARDING CERTIFICATES OF VARIATION OR AFFIDAVITS OF CORRECTNESS.

(2) THE FEE COLLECTED BY THE CLERK SHALL BE THE SAME AS FEES ALLOWED BY LAW FOR SIMILAR SERVICES REGARDING MATTERS OF RECORD IN THE CLERK'S OFFICE.

(3) THE FEE SHALL BE PAID BY THE PARTY:

(I) RECORDING THE DOCUMENT; OR

(II) REQUESTING A COPY OR ABSTRACT OF RECORDED DOCUMENTS.

(F) PENALTY FOR DESTROYING PILLARS.

(1) A PERSON MAY NOT:

(I) WILLFULLY ERASE, DEFACE, DISPLACE, OR OTHERWISE HARM A PILLAR, OR ANY PART OF A PILLAR, ERECTED UNDER SUBSECTION (A)(1) OF THIS SECTION; OR

(II) DESTROY, BREAK DOWN, OR REMOVE THE ENCLOSURE, OR ANY PART OF THE ENCLOSURE, REQUIRED UNDER SUBSECTION (A)(3) OF THIS SECTION.

(2) ON CONVICTION, A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO A FINE OF NOT LESS THAN $50 AND NOT EXCEEDING $500.

(G) EXPENSES.

THE GOVERNING BODY OF A COUNTY THAT ERECTS PILLARS UNDER THIS SECTION MAY PAY THE COSTS OF CARRYING OUT THIS SECTION IN THE SAME MANNER THAT OTHER COUNTY EXPENSES ARE PAID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, §§ 123, 124, 125, 126, and 127.

In subsection (a)(1) of this section, the statement that a governing body "may erect two pillars" is substituted for the former statement that "[i]t shall be lawful ... if they shall deem it expedient, to cause to be erected ... two good and substantial stone pillars" for brevity.

Also in subsection (a)(1) of this section, the former reference to the pillars being 100 feet apart "the one from the other" is deleted as surplusage.

In subsection (b)(1)(i) of this section, the statement that the governing body of a county "may … determine the accurate latitude and longitude" is substituted for the former statement that "it shall be lawful … to cause to be determined the accurate latitude and longitude" for brevity.

In subsection (b)(1)(ii) of this section, the former reference to having marked the latitude and longitude on a pillar "distinctly and legibly" is deleted as implicit in the requirement to mark the pillars.

In the introductory language of subsection (c)(2) of this section, the reference to the pillars and enclosures being "made available" to surveyors or civil engineers is substituted for the former reference to the pillars and enclosures being "free to the access of" surveyors or civil engineers for brevity and clarity.

Also in the introductory language of subsection (c)(2) of this section, the former reference to any surveyor "of lands" is deleted as surplusage.

In subsection (c)(2)(i) of this section, the former reference to testing compass variations "for the time being" is deleted as surplusage.

In subsection (c)(2)(ii) of this section, the former reference to "caus[ing]" verification of the meridian line is deleted as surplusage.

In subsection (d)(1) of this section, the former reference to the "actual" variation of the surveyor's compass is deleted as surplusage.

In subsection (d)(2) of this section, the reference to "record[ing]" the results of the test is substituted for the former reference to "deposit[ing] a copy" of the results for clarity.

In subsection (d)(3) of this section, the reference to a surveyor "who violates" this subsection is substituted for the former reference to a surveyor "neglecting or refusing to comply" with the provisions of this section for brevity.

Also in subsection (d)(3) of this section, the reference to a "fine of $50 and court costs" is substituted for the former reference to a "penalty of fifty dollars, to be recovered with costs as debts of like character are recovered in the District Court sitting in the county" for brevity.

In subsection (e)(1)(ii) of this section, the former reference to affidavits of the correctness "of the same appended" is deleted as surplusage.

In the introductory language of subsection (f)(1) of this section, the former reference to "persons" is deleted in light of the reference to "person" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (f)(1)(ii) of this section, the former reference to "any lock, bolt, [or] bar" is deleted as included in the reference to "any part of the enclosure".

The Local Government Article Review Committee notes, for consideration by the General Assembly, that this section was initially enacted in 1870 and appears to be obsolete. The General Assembly may wish to consider its deletion.

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

9–113. BALTIMORE CITY AND MONTGOMERY COUNTY — RESIDENCY REQUIREMENTS FOR CHIEF EXECUTIVE OFFICER.

(A) "CHIEF EXECUTIVE OFFICER" DEFINED.

IN THIS SECTION, "CHIEF EXECUTIVE OFFICER" MEANS:

(1) THE MAYOR OF BALTIMORE CITY; OR

(2) THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO BALTIMORE CITY AND MONTGOMERY COUNTY.

(C) CANDIDATES FOR CHIEF EXECUTIVE OFFICER.

EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A CANDIDATE FOR CHIEF EXECUTIVE OFFICER SHALL BE A RESIDENT OF THE COUNTY FOR AT LEAST 6 MONTHS BEFORE THE GENERAL ELECTION FOR CHIEF EXECUTIVE OFFICER.

(D) EXCEPTION.

IF THE CHARTER OF A COUNTY CONTAINS A DURATIONAL RESIDENCY REQUIREMENT THAT IS LONGER THAN 6 MONTHS, THE LONGER DURATIONAL RESIDENCY REQUIREMENT SHALL BE RETAINED IF THE GOVERNING BODY OF THE COUNTY REAFFIRMS THE REQUIREMENT BY ENACTMENT OF AN ORDINANCE NO LATER THAN 4 WEEKS BEFORE THE FILING DEADLINE SPECIFIED IN § 5–303(A) OF THE ELECTION LAW ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 1–108.

In this section, the references to "county" are substituted for the former references to "political subdivision" for accuracy.

Defined term: "Governing body" § 1–101

SUBTITLE 2. CHARTER COUNTIES.

9–201. GENERAL AUTHORITY.

A CHARTER COUNTY:

(1) SHALL HAVE PERPETUAL SUCCESSION;

(2) MAY SUE AND BE SUED;

(3) MAY ACQUIRE AND HOLD PROPERTY, EITHER ABSOLUTELY OR IN TRUST FOR A PUBLIC PURPOSE;

(4) MAY DISPOSE OF PROPERTY;

(5) MAY ADOPT A COMMON SEAL; AND

(6) MAY ADOPT AN ORDINANCE, A RESOLUTION, OR BYLAWS TO EXERCISE ITS POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 1(a).

In the introductory language of this section, the reference to "[a] charter county" is substituted for the former reference to "[t]he inhabitants of any county adopting a charter or form of government under the provisions of Article XI–A of the Constitution of the State by virtue of such adoption" for brevity.

In item (3) of this section, the former reference to "purchas[ing]" property is deleted as included in the reference to "acquir[ing]" property.

Also in item (3) of this section, the former reference to "real, personal and mixed" property is deleted as included in the reference to "property".

In item (4) of this section, the former reference to disposing of property "subject to the limitations herein provided, if not contrary to the terms of any trust" is deleted as unnecessary because the terms of a trust or more specific statutory provisions would govern the sale of the property.

In item (5) of this section, the reference to "adopt[ing]" a common seal is substituted for the former reference to "hav[ing], us[ing] and alter[ing] at pleasure" a common seal for brevity.

In item (6) of this section, the former reference to adopting an ordinance, a resolution, or bylaws "necessary or proper" to exercise power is deleted as surplusage.

Defined term: "Charter county" § 1–101

9–202. EFFECT OF ADOPTION OF CHARTER.

WHEN A COUNTY BECOMES A CHARTER COUNTY:

(1) ALL PROPERTY AND FRANCHISES BELONGING TO OR IN THE POSSESSION OF THE FORMER COUNTY COMMISSIONERS OF THE COUNTY OR ANY COUNTY AGENCIES ARE VESTED IN THE CHARTER COUNTY AS A CORPORATION;

(2) AN ACTION AGAINST THE FORMER COUNTY COMMISSIONERS OF THE COUNTY DOES NOT ABATE AND IS CONTINUED IN THE NAME OF THE CHARTER COUNTY WITH THE SAME EFFECT AS IF ORIGINALLY BROUGHT AGAINST THE CHARTER COUNTY;

(3) ALL LIABILITIES, OBLIGATIONS, CONTRACTS, CLAIMS, AND DEMANDS, ACCRUED OR TO ACCRUE, OF THE FORMER COUNTY COMMISSIONERS OF THE COUNTY ARE THE LIABILITIES, OBLIGATIONS, CONTRACTS, CLAIMS, AND DEMANDS OF THE CHARTER COUNTY; AND

(4) A CRIMINAL PROCEEDING IS NOT AFFECTED BY THE ADOPTION OF THE CHARTER AND SHALL BE PROSECUTED UNDER THE LAW IN EFFECT AT THE TIME OF THE CRIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 1(b).

In this section, the references to the "former" county commissioners are added for clarity.

In item (1) of this section, the former reference to property and franchises "of every kind" is deleted as redundant of the reference to "all" property and franchises.

In item (2) of this section, the former reference to an action being "begun" is deleted as included in the reference to an action being "brought".

In item (3) of this section, the former reference to "subsisting" liabilities, obligations, contracts, claims, and demands is deleted as surplusage.

Also in item (3) of this section, the former phrase "at law or in equity" is deleted to reflect the merger of law and equity effected by Md. Rule 2–301, which mandates "one form of action known as 'civil action'".

Also in item (3) of this section, the former reference to liabilities, obligations, contracts, claims, and demands accruing to the county commissioners "or in its favor" is deleted as surplusage.

Also in item (3) of this section, the former phrase "without further formality" is deleted as surplusage.

Also in item (3) of this section, the reference to "the charter county" is substituted for the former reference to "such commissioners and county council of the county adopting a charter under Article XI–A of the Maryland Constitution" for brevity.

In item (4) of this section, the reference to a criminal "proceeding" is substituted for the former reference to a criminal "action, prosecution or indictment" for brevity.

Defined terms: "Charter county" § 1–101
"County" § 1–101

9–203. NOTICE OF ADOPTION OR REJECTION OF CHARTER.

AFTER THE ADOPTION OR REJECTION OF CHARTER HOME RULE, A COUNTY PROMPTLY SHALL NOTIFY AND PROVIDE COPIES OF THE ADOPTED OR REJECTED CHARTER TO THE FOLLOWING:

(1) FIVE COPIES TO THE DEPARTMENT OF LEGISLATIVE SERVICES;

(2) ONE COPY TO THE SECRETARY OF STATE;

(3) ONE COPY TO THE STATE ARCHIVES; AND

(4) ONE COPY TO THE MARYLAND STATE LAW LIBRARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 3B.

The former references to the specific addresses of the Department of Legislative Services, the Secretary of State, the State Archives, and the State Law Library are deleted as surplusage and to conform to other similar provisions of this article.

In the introductory language of this section, the former reference to notifying agencies "of that change" is deleted as surplusage.

Defined term: "County" § 1–101

9–204. COUNCIL MEMBERS.

(A) ELECTION.

MEMBERS OF THE COUNTY COUNCIL OF A CHARTER COUNTY SHALL BE ELECTED AS PROVIDED IN ARTICLE XI–A, § 3A OF THE MARYLAND CONSTITUTION.

(B) RESIDENCE IN SPECIFIC DISTRICTS.

A COUNTY CHARTER MAY REQUIRE THAT A SPECIFIED NUMBER OF MEMBERS OF THE COUNTY COUNCIL SHALL:

(1) RESIDE IN SPECIFIED DISTRICTS IN THE CHARTER COUNTY; BUT

(2) BE ELECTED BY THE VOTERS OF THE ENTIRE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, §§ 2 and 3.

In subsection (b)(2) of this section, the former reference to members elected "on the general ticket" is deleted as unnecessary in light of the reference to the voters of the "entire county".

Also in subsection (b)(2) of this section, the former reference to "qualified" voters is deleted as surplusage.

Defined term: "Charter county" § 1–101

9–205. POWER OF REFERENDUM.

(A) RESERVATION.

(1) THE VOTERS OF A CHARTER COUNTY MAY RESERVE IN THE CHARTER THE POWER OF REFERENDUM BY WHICH THEY MAY SUBMIT A LOCAL LAW ENACTED BY THE COUNTY COUNCIL, BY PETITION, TO THE VOTERS FOR APPROVAL OR REJECTION.

(2) THE CHARTER SHALL SPECIFY:

(I) WHAT TYPES OF LOCAL LAWS MAY BE PETITIONED TO REFERENDUM; AND

(II) WHETHER A PART OF A LOCAL LAW MAY BE PETITIONED TO REFERENDUM.

(B) IMPLEMENTATION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN IMPLEMENTING PROCEDURES THAT RELATE TO THE POWER OF REFERENDUM, THE CHARTER OR THE LOCAL LAWS SHALL PROVIDE ADEQUATE DETAILS AS TO TIME, NOTICE, AND FORM.

(2) THE INITIAL NOTICE OF A REFERENDUM VOTE SHALL BE GIVEN AT LEAST 30 DAYS BEFORE THE ELECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 8.

In subsection (a)(1) of this section, the reference to a local law enacted "by the county council" is substituted for the former references to a local law enacted "in accordance with the legislative procedure of the county council" for brevity.

Also in subsection (a)(1) of this section, the reference to the "voters" of a charter county is substituted for the former reference to the "citizens" of a charter county for accuracy because counties do not have citizens.

Also in subsection (a)(1) of this section, the former reference to "registered" voters is deleted as implicit as a requirement to vote.

Also in subsection (a)(1) of this section, the former reference to submitting a "portion of any local law" to referendum is deleted as unnecessary in light of the reference in subsection (a)(2)(ii) to the charter specifying whether part of the local law can be petitioned to referendum. Similarly, in subsection (b)(2) of this section, the former reference to "a local law, or portion of a local law" is deleted.

In the introductory language of subsection (a)(2) of this section, the former reference to the power of referendum "[i]f reserved" being "set forth in the charter of the county" is deleted in light of the reference in subsection (a)(1) of this section to the power of referendum being "reserve[d] in the charter".

In subsection (b)(2) of this section, the statement that "[t]he initial notice of a referendum shall be given at least 30 days before the election" is substituted for the former statement that "in no event may the initial notice … be less than 30 days before the election" for clarity.

Also in subsection (b)(2) of this section, the former reference to the election "at which the law, or a portion thereof, is submitted to the voters of the county" is deleted as surplusage.

For other provisions on requirements for ballot questions, *see* Title 7 of the Election Law Article.

Defined term: "Charter county" § 1–101

9–206. ANNUAL DUTIES REGARDING LOCAL LAWS — CHARTER COUNTIES.

(A) IN GENERAL.

(1) AT THE END OF EACH CALENDAR OR FISCAL YEAR, EACH CHARTER COUNTY SHALL COMPILE A COMPLETE SET OF ALL LOCAL LAWS ENACTED DURING THAT YEAR UNDER THE EXPRESS POWERS ACT, TITLE 10 OF THIS ARTICLE.

(2) THE LAWS IN THE COMPILATION SHALL BE IN NUMERICAL ORDER, BEGINNING WITH NO. 1, AND IN A SEPARATE SERIES FOR EACH YEAR.

(B) PUBLIC INSPECTION OF COPIES OF COMPILATION.

(1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, COPIES OF THE COMPILATION SHALL BE:

(I) KEPT ON PERMANENT RECORD AT THE OFFICE OF THE COUNTY COUNCIL, COUNTY EXECUTIVE, OR COUNTY MANAGER;

(II) MADE AVAILABLE FOR INSPECTION DURING REGULAR BUSINESS HOURS AT THAT OFFICE; AND

(III) PROVIDED IN PRINTED FORM WITHOUT CHARGE TO THE STATE ARCHIVES AND THE MARYLAND STATE LAW LIBRARY.

(2) ANNUALLY, EACH CHARTER COUNTY SHALL PROVIDE EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF THE COUNTY WITH:

(I) NOTICE THAT A DIGITAL COPY OF THE COMPILATION IS AVAILABLE ON THE INTERNET; OR

(II) A PRINTED COPY OF THE COMPILATION WITHOUT CHARGE.

(3) THE CHARTER COUNTY MAY MAKE OTHER COPIES OF THE COMPILATION AVAILABLE AT A REASONABLE COST TO ANY PERSON.

(C) PROVIDING COPIES OF COMPILATION TO DEPARTMENT OF LEGISLATIVE SERVICES.

ON OR BEFORE MARCH 1 OF EACH YEAR, THE CHARTER COUNTY SHALL PROVIDE WITHOUT CHARGE FOUR PRINTED COPIES OF THE COMPILATION TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

(D) STATEMENT ON REFERENDUM ON PROPOSED LAW.

EACH CHARTER COUNTY SHALL PROVIDE TO THE DEPARTMENT OF LEGISLATIVE SERVICES A STATEMENT THAT INCLUDES INFORMATION ON:

(1) THE RESULTS OF ANY REFERENDUM ON A PROPOSED LOCAL LAW HELD DURING THE YEAR; AND

(2) ANY ACTUAL OR POTENTIAL PENDING REFERENDUM THAT HAD NOT BEEN HELD BY THE END OF THE YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 7(a) through (d).

In subsection (a)(1) of this section, the former reference to the compilation being "convenient and legible" is deleted as implicit in the charter county's obligation to provide the documents in compilation form.

Also in subsection (a)(1) of this section, the former reference to local laws enacted "whether to enact, amend, or repeal a local law" is deleted as surplusage.

In subsection (c) of this section, the reference to "each" year is substituted for the former reference to "the next succeeding year" for clarity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the reference to laws enacted under the "Express Powers Act" in subsection (a)(1) of this section and § 9–207(a) of this subtitle may be an unnecessary limitation and is not consistent with

the requirement under § 9–207(c) of this subtitle that the titles of laws that amend a charter county's code be published in the Session Laws of the General Assembly, whether or not the laws were enacted under the Express Powers Act.

The Local Government Article Review Committee also notes, for consideration by the General Assembly, that it is unclear what is meant by the reference to a "potential" pending referendum in subsection (d)(2) of this section.

Defined terms: "Charter county" § 1–101
"Person" § 1–101

9–207. ANNUAL DUTIES REGARDING LOCAL LAWS — DEPARTMENT OF LEGISLATIVE SERVICES.

(A) INQUIRY TO CHARTER COUNTIES.

(1) AT THE END OF EACH CALENDAR YEAR, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL ASK EACH CHARTER COUNTY WHETHER THE COUNTY HAS ENACTED ANY PART OF ITS LOCAL LAWS UNDER THE EXPRESS POWERS ACT, TITLE 10 OF THIS ARTICLE, DURING THAT CALENDAR YEAR OR ITS LATEST FISCAL YEAR.

(2) THE CHARTER COUNTY PROMPTLY SHALL:

(I) ANSWER THE INQUIRY; AND

(II) VERIFY THAT COPIES OF THE REQUESTED ENACTMENTS OF LOCAL LAWS HAVE ALREADY BEEN SENT TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

(B) NONCOMPLIANCE BY CHARTER COUNTIES.

(1) THE DEPARTMENT OF LEGISLATIVE SERVICES PROMPTLY SHALL CERTIFY TO THE COMPTROLLER IF A CHARTER COUNTY DOES NOT COMPLY WITH SUBSECTION (A) OF THIS SECTION OR § 9–206(C) OR (D) OF THIS SUBTITLE.

(2) IF THE DEPARTMENT OF LEGISLATIVE SERVICES CERTIFIES NONCOMPLIANCE, THE COMPTROLLER MAY DISCONTINUE ALL FUNDS, GRANTS, OR STATE AID THAT THE CHARTER COUNTY IS ENTITLED TO UNDER STATE LAW RELATING TO:

(I) THE INCOME TAX;

(II) THE TAX ON RACING;

(III) THE RECORDATION TAX;

(IV) THE ADMISSIONS AND AMUSEMENT TAX; AND

(V) LICENSE TAXES OR FEES.

(C) PRINTING AND INDEXING OF COMPILATIONS OF LOCAL LAWS.

THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

(1) ARRANGE IN A LOGICAL AND CONVENIENT ORDER THE TITLES OF THE LAWS OF EACH CHARTER COUNTY THAT AMENDS ITS COUNTY CODE;

(2) PRINT EACH TITLE, IDENTIFIED AS A TITLE OF THE LAWS OF A CHARTER COUNTY THAT AMENDS ITS COUNTY CODE, IN THE SESSION LAWS OF THE GENERAL ASSEMBLY FOR ITS REGULAR SESSION IN THAT YEAR; AND

(3) INDEX EACH TITLE WITH OR IN A SUPPLEMENTAL VOLUME TO THE LAWS ENACTED BY THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 7(e) through (g).

In subsection (a)(1) of this section, the former references to laws "amended" or "repealed" are deleted as included in the reference to laws "enacted".

In subsection (a)(2)(ii) of this section, the reference to "the requested enactments" is substituted for the former reference to "such enactments, amendments, or repeals" for brevity.

In subsection (b)(1) of this section, the reference to a county that "does not comply with subsection (a) of this section or § 9–206(c) or (d) of this subtitle" is substituted for the former reference to the county that "fails or refuses to supply printed copies of this compilation and of the results of any referenda thereon to the State Department of Legislative Services by March 1 of the next succeeding year, or fails or refuses to certify that there have been no such enactments, amendments, or repeals, or referenda, during the last calendar or fiscal year" for brevity.

In subsection (b)(2)(v) of this section, the reference to the license taxes "or fees" is added for accuracy. When Art. 25A, § 7 was enacted in 1967, licenses were governed by Art. 56 of the Code. At that time there were several instances in Art. 56 where the language suggested that certain license fees were viewed as a tax. Additionally, there is case law dating back to the late 1800s that supports the assertion that certain fees are viewed as a tax. *See, e.g., State Ins. Comm'r v. Nationwide Mut. Ins. Co.*, 241 Md. 108, 117 (1966); *Ruggles v. State*, 120 Md. 553, 563 (1913); and *Carson v. State*, 57 Md. 251, 255 (1881).

In subsection (c) of this section, the references to the "county code" are substituted for the former references to the "codes of public local laws" because each county has incorporated its code of public local laws into its county code.

Also in subsection (c) of this section, the former reference to the Department of Legislative Services "receiv[ing] the several compilations and statements delivered to it" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to the titles of the laws being "delivered to the State printer" for inclusion in the Session Laws is deleted as obsolete because the Department of Legislative Services prints the Session Laws of the General Assembly.

Defined terms: "Charter county" § 1–101
"State" § 1–101

SUBTITLE 3. CODE COUNTIES.

9–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE 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) CODE HOME RULE.

"CODE HOME RULE" MEANS A FORM OF COUNTY GOVERNMENT ORGANIZED UNDER ARTICLE XI–F OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 25B, § 1(b).

The reference to a "form of county government organized under" Article XI–F of the Maryland Constitution is substituted for the former reference to a "county under and having the authority of" Article XI–F of the Maryland Constitution for clarity.

The former reference to code home rule "status" is deleted as surplusage.

The former reference to the authority of "this article" [former Article 25B of the Code] is deleted as unnecessary because that authority would be encompassed by the authority under Article XI–F of the Maryland Constitution.

Defined term: "County" § 1–101

(C) PUBLIC LOCAL LAW.

"PUBLIC LOCAL LAW" HAS THE MEANING STATED IN ARTICLE XI–F, § 1 OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 25B, § 1(c).

The former references to public local law "mean[ing] a law applicable to the incorporation, organization, or government of a code county …" and to the term not including specified types of laws are deleted as substantively identical to the definition in Article XI–F, § 1 of the Maryland Constitution.

(D) VOTER.

"VOTER" MEANS AN INDIVIDUAL WHO IS REGISTERED TO VOTE UNDER TITLE 3, SUBTITLE 1 OF THE ELECTION LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 25B, § 1(d).

The reference to "an individual" who is registered to vote is substituted for the former reference to "a person" who is registered to vote because only human beings and not the other entities included in the definition of "person" can register to vote.

The reference to "Title 3, Subtitle 1" of the Election Law Article is substituted for the former reference to "the provisions of" the Election Law Article for clarity. Title 3, Subtitle 1 of the Election Law Article covers voter registration generally by the county boards of elections.

The former reference to a "[r]egistered" voter is deleted in light of the definition's requirement that the voter be registered to vote.

The former reference to being registered to vote "in State and county elections" is deleted as unnecessary in light of the specific reference to Title 3, Subtitle 1 of the Election Law Article.

9–302. CLASSES OF CODE COUNTIES.

(A) IN GENERAL.

(1) THERE ARE FOUR CLASSES OF CODE COUNTIES, BASED ON THE GEOGRAPHIC REGION OF THE STATE WHERE THE COUNTY IS LOCATED.

(2) THE GEOGRAPHIC REGIONS OF THE STATE ARE:

(I) CENTRAL MARYLAND, CONSISTING OF ANNE ARUNDEL COUNTY, BALTIMORE CITY, BALTIMORE COUNTY, CARROLL COUNTY, FREDERICK COUNTY, HARFORD COUNTY, HOWARD COUNTY, MONTGOMERY COUNTY, AND PRINCE GEORGE'S COUNTY;

(II) EASTERN SHORE, CONSISTING OF CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY;

(III) SOUTHERN MARYLAND, CONSISTING OF CALVERT COUNTY, CHARLES COUNTY, AND ST. MARY'S COUNTY; AND

(IV) WESTERN MARYLAND, CONSISTING OF ALLEGANY COUNTY, GARRETT COUNTY, AND WASHINGTON COUNTY.

(B) APPLICATION OF PUBLIC GENERAL LAWS.

UNLESS LIMITED TO ONE OR MORE CLASSES LISTED IN THIS SECTION, A PUBLIC GENERAL LAW ENACTED BY THE GENERAL ASSEMBLY THAT APPLIES TO CODE COUNTIES APPLIES TO EACH CODE COUNTY, REGARDLESS OF CLASS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 2.

In subsection (a)(1) of this section, the former reference to "[t]he General Assembly determin[ing] that" there are four classes of code counties is deleted as surplusage.

Also in subsection (a)(1) of this section, the former reference to a county "that adopts home rule under Article XI–F of the Maryland Constitution" is deleted in light of the reference to "code counties".

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

9–303. AUTHORITY TO ADOPT HOME RULE.

THE COUNTY COMMISSIONERS OF EACH COUNTY MAY ADOPT CODE HOME RULE SUBJECT TO APPROVAL AT REFERENDUM BY THE VOTERS OF THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 3.

In this section and throughout this subtitle, the references to "code home rule" are substituted for the former references to "the code form of home rule" for consistency with the definition of "code home rule" in § 9–301 of this subtitle.

Defined terms: "Code home rule" § 9–301
"County" § 1–101
"Voter" § 9–301

9–304. NOTICE OF INTENT TO ADOPT HOME RULE.

(A) IN GENERAL.

IF THE COUNTY COMMISSIONERS DECIDE TO FORMALLY CONSIDER ADOPTING CODE HOME RULE, THE COUNTY COMMISSIONERS SHALL:

(1) HOLD AT LEAST TWO PUBLIC HEARINGS IN THE COUNTY ON THE PROPOSAL; AND

(2) PUBLISH NOTICE OF THE DATE, TIME, AND PLACE OF EACH PUBLIC HEARING IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY:

(I) AT LEAST THREE TIMES;

(II) AT WEEKLY INTERVALS; AND

(III) IN A PERIOD OF NOT MORE THAN 30 DAYS BEFORE THE FIRST PUBLIC HEARING.

(B) RESIDENTS AND TAXPAYERS TO BE HEARD.

AT THE HEARINGS, THE RESIDENTS AND TAXPAYERS OF THE COUNTY SHALL BE GIVEN THE OPPORTUNITY TO BE HEARD ON THE PROPOSAL TO ADOPT CODE HOME RULE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, §§ 4 and 5.

In subsection (a) of this section, the former statement that the "board shall make known this intent by publication of notice that the board is considering the adoption of the code form of home rule" is deleted as unnecessary in light of the references to "hold[ing] at least two public hearings … on the proposal" and "publish[ing] notice of the date, time, and place of each public hearing".

In subsection (a)(1) of this section, the former reference to the hearings being authorized to be held "in the courthouse or at some other appropriate place or places" is deleted as unnecessary in light of the authorization for the hearing to be held in "the county".

In the introductory language of subsection (a)(2) of this section, the former reference to "places" is deleted in light of the reference to a "place" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined terms: "Code home rule" § 9–301
"County" § 1–101

9–305. RESOLUTION TO ADOPT HOME RULE.

(A) DECISION ON ADOPTION.

WITHIN 60 DAYS AFTER THE LAST PUBLIC HEARING, THE COUNTY COMMISSIONERS SHALL DECIDE WHETHER TO ADOPT CODE HOME RULE.

(B) REQUIREMENTS FOR RESOLUTION.

TO ADOPT CODE HOME RULE, THE COUNTY COMMISSIONERS SHALL ADOPT A RESOLUTION BY AT LEAST A TWO–THIRDS MAJORITY OF ALL THE INDIVIDUALS ELECTED TO THE BOARD OF COUNTY COMMISSIONERS.

(C) CONTENTS OF RESOLUTION.

THE RESOLUTION SHALL STATE THAT, SUBJECT TO APPROVAL AT REFERENDUM, THE COUNTY SHALL OPERATE UNDER ARTICLE XI–F OF THE MARYLAND CONSTITUTION.

(D) COPY TO COUNTY BOARD OF ELECTIONS.

THE COUNTY COMMISSIONERS SHALL SEND A CERTIFIED COPY OF THE RESOLUTION TO THE COUNTY BOARD OF ELECTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 6.

In subsection (b) of this section, the former reference to a resolution "passed as in the usual course of considering resolutions" is deleted as implicit in the reference to adopting a resolution.

In subsection (d) of this section, the reference to the "county commissioners" sending the certified copy of the resolution is added for clarity.

In subsection (d) of this section and throughout this subtitle, the former references to the board "of supervisors" of elections are deleted for accuracy.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the requirement in subsection (b) of this section for a two–thirds vote of "all the individuals elected to the county commissioners" for the adoption of code home rule is unclear in the instance of a vacancy in the county commissioners. Is the intent of the section to require two–thirds of the number of total elected positions or two–thirds of the number of positions currently filled? The General Assembly may wish to clarify this provision.

Defined terms: "Code home rule" § 9–301
"County" § 1–101

9–306. REFERENDUM ON HOME RULE.

(A) IN GENERAL.

THE COUNTY BOARD OF ELECTIONS SHALL SUBMIT THE QUESTION OF CODE HOME RULE TO THE VOTERS OF THE COUNTY FOR THEIR ADOPTION OR REJECTION:

(1) AT THE NEXT REGULAR CONGRESSIONAL ELECTION; AND

(2) IN ACCORDANCE WITH THE REQUIREMENTS OF THE ELECTION LAW ARTICLE AS TO TIME, NOTICE, AND FORM.

(B) REQUIRED BALLOT LANGUAGE.

THE BALLOT SHALL CONTAIN THE WORDS "FOR ADOPTION OF CODE HOME RULE" AND "AGAINST ADOPTION OF CODE HOME RULE".

(C) RESULTS OF REFERENDUM.

WITHIN 10 DAYS AFTER RECEIVING A CERTIFICATION OF THE VOTE ON THE REFERENDUM FROM THE COUNTY BOARD OF ELECTIONS:

(1) IF A MAJORITY OF THOSE WHO VOTED ON THE QUESTION VOTED IN FAVOR OF ADOPTION OF CODE HOME RULE:

(I) THE COUNTY COMMISSIONERS PUBLICLY SHALL SO PROCLAIM; AND

(II) ON THE 30TH DAY AFTER THE PUBLIC PROCLAMATION, THE COUNTY SHALL BECOME A CODE COUNTY; OR

(2) IF LESS THAN A MAJORITY OF THOSE WHO VOTED ON THE QUESTION VOTED IN FAVOR OF ADOPTION OF CODE HOME RULE:

(I) THE COUNTY COMMISSIONERS PUBLICLY SHALL SO PROCLAIM; AND

(II) THE PROCLAMATION SHALL STATE THAT THE PROPOSAL TO ADOPT CODE HOME RULE IS NOT APPROVED.

(D) NOTICE OF ADOPTION OR REJECTION OF CODE HOME RULE.

AFTER THE ADOPTION OR REJECTION OF CODE HOME RULE, THE COUNTY COMMISSIONERS PROMPTLY SHALL SEND NOTIFICATION AS FOLLOWS:

(1) FIVE COPIES TO THE DEPARTMENT OF LEGISLATIVE SERVICES;

(2) ONE COPY TO THE SECRETARY OF STATE;

(3) ONE COPY TO THE STATE ARCHIVES; AND

(4) ONE COPY TO THE MARYLAND STATE LAW LIBRARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 7.

In subsection (b) of this section, the former reference to "voting machine labels" is deleted as unnecessary in light of the reference to "ballot[s]".

In the introductory language of subsection (c) of this section, the reference to the vote "on the referendum" is added for clarity.

In the introductory language of subsection (c)(2) of this section, the reference to if "less than" a majority voted "in favor of" adoption of code home rule is substituted for the former reference to if a majority vote "against" adoption for consistency with other similar provisions of this article.

In subsection (c)(2)(ii) of this section, the reference to the "proclamation [stating] that" the proposal is not approved is added for consistency with other similar provisions of this article.

In the introductory language of subsection (d) of this section, the phrase "[a]fter the adoption or rejection of code home rule" is substituted for the former reference to "[w]henever the county commissioners proclaim the adoption or rejection of code home rule status" for brevity.

In subsection (d) of this section, the former references to the specific addresses of the Department of Legislative Services, the Secretary of State, the State Archives, and the State Law Library are deleted as unnecessary and to conform to other similar provisions of this article.

Defined terms: "Code county" § 1–101
"Code home rule" § 9–301
"County" § 1–101
"Voters" § 9–301

9–307. RETURN TO PRIOR FORM OF GOVERNMENT.

A CODE COUNTY MAY RETURN TO ITS FORM OF GOVERNMENT BEFORE THE ADOPTION OF CODE HOME RULE BY FOLLOWING THE SAME PROCEDURE REQUIRED BY THIS SUBTITLE FOR THE ADOPTION OF CODE HOME RULE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 7A.

The reference to the procedures required for the adoption of "code home rule" is substituted for the former reference to the procedure required for the adoption of "such status" for clarity.

The former phrase "[a]fter having become a code county according to the procedure required in this subtitle" is deleted as surplusage.

The former reference to a county "elect[ing]" to return to its prior form of government is deleted as surplusage.

Defined terms: "Code county" § 1–101
"Code home rule" § 9–301

9–308. POWER TO ENACT PUBLIC LOCAL LAWS.

EACH CODE COUNTY SHALL PROCEED IN ACCORDANCE WITH THIS SUBTITLE TO EXERCISE THE POWERS TO ENACT PUBLIC LOCAL LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 8, as it related to the enactment of public local laws.

The former references to "amend[ing]" and "repeal[ing]" public local laws are deleted as included in the reference to "enact[ing]" public local laws.

Defined terms: "Code county" § 1–101
"Public local law" § 9–301

9–309. LEGISLATIVE DAYS.

(A) ESTABLISHMENT.

BY PUBLIC LOCAL LAW, THE COUNTY COMMISSIONERS OF A CODE COUNTY SHALL ESTABLISH A SPECIFIED NUMBER OF DAYS, NOT EXCEEDING 45 DAYS, IN EACH YEAR ON WHICH THE COUNTY COMMISSIONERS MAY MEET TO ENACT PUBLIC LOCAL LAWS.

(B) LEGISLATIVE DAYS GENERALLY.

(1) LEGISLATIVE DAYS:

(I) NEED NOT BE CONSECUTIVE; AND

(II) MAY BE DESIGNATED BY PUBLIC LOCAL LAW.

(2) IF A LEGISLATIVE DAY IS NOT SPECIFIED OR NOT DETERMINABLE BY PUBLIC LOCAL LAW, THE COUNTY COMMISSIONERS SHALL PUBLISH NOTICE OF THE LEGISLATIVE DAY IN A NEWSPAPER OF GENERAL CIRCULATION IN THE CODE COUNTY BETWEEN 3 AND 14 DAYS BEFORE THE LEGISLATIVE DAY.

(C) FIRST LEGISLATIVE SESSION.

(1) THE FIRST LEGISLATIVE SESSION OF A CODE COUNTY SHALL:

(I) BEGIN ON THE FIRST BUSINESS DAY 60 DAYS AFTER THE EFFECTIVE DATE OF CODE HOME RULE; AND

(II) BE 15 DAYS LONG.

(2) THE 15 DAYS OF THE FIRST LEGISLATIVE SESSION DO NOT COUNT AS PART OF THE ANNUAL 45 LEGISLATIVE DAYS.

(D) OPEN TO PUBLIC.

EACH LEGISLATIVE SESSION SHALL BE OPEN TO THE PUBLIC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, §§ 9 and 10(a).

In subsection (a) of this section, the reference to the "county commissioners" of a code county is added for accuracy.

In subsection (b)(1)(ii) of this section, the reference to the days being "designated" by public local law is substituted for the former reference to the legislative days being "allotted as the legislative body" by public local law "determines" for brevity and clarity.

In subsection (b)(2) of this section, the former reference to a legislative day being "preceded" by notice is deleted as surplusage.

Also in subsection (b)(2) of this section, the former reference to publishing notice "within a period of" between 3 and 14 days before the legislative day is deleted as surplusage.

In subsection (c)(1)(i) of this section, the reference to the legislative session "begin[ning]" on the first business day is substituted for the former reference to the legislative day "be[ing] held" on the first business day for clarity.

Also in subsection (c)(1)(i) of this section, the former reference to the first "ordinary" business day is deleted as surplusage.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the requirement in subsection (d) of this section that each legislative session is to be open to the public may create a conflict with the provisions of the State Open Meetings Act and may be unnecessary in light of § 9–101(b) of this title.

Defined terms: "Code county" § 1–101
"Code home rule" § 9–301
"Public local law" § 9–301

9–310. REQUIREMENTS FOR PUBLIC LOCAL LAWS.

(A) PASSED BY ORIGINAL BILL.

EACH PUBLIC LOCAL LAW OF A CODE COUNTY SHALL BE PASSED BY ORIGINAL BILL.

(B) ENACTING CLAUSE.

THE STYLE OF THE ENACTING CLAUSE FOR EACH BILL SHALL BE "BE IT ENACTED BY …".

(C) ONE SUBJECT RULE.

EACH PUBLIC LOCAL LAW ENACTED SHALL EMBRACE ONLY ONE SUBJECT, WHICH SHALL BE DESCRIBED IN THE TITLE OF THE BILL.

(D) REFERENCE TO TITLE ONLY; PROHIBITED.

A PUBLIC LOCAL LAW MAY NOT BE REPEALED OR AMENDED BY REFERENCE TO ITS TITLE ONLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 10(b) and (c).

In subsection (a) of this section, the reference to each public local law "of a code county" is added for clarity.

In subsection (d) of this section, the former reference to a public local law being "revised" is deleted as included in the reference to a public local law being "amended".

Also in subsection (d) of this section, the former reference to a "section" of a public local law is deleted as included in the reference to a "public local law".

Defined terms: "Code county" § 1–101
"Public local law" § 9–301

9–311. LEGISLATIVE PROCEDURE.

(A) INTRODUCTION OF BILLS.

A COUNTY COMMISSIONER OF A CODE COUNTY MAY INTRODUCE A BILL ON ANY LEGISLATIVE DAY.

(B) PUBLIC HEARINGS ON BILLS.

(1) (I) NOT LATER THAN THE NEXT DAY AFTER THE INTRODUCTION OF A BILL, THE PRESIDING OFFICER OF THE COUNTY COMMISSIONERS SHALL SCHEDULE A PUBLIC HEARING ON THE BILL.

(II) A BILL MAY BE REJECTED AFTER ITS INTRODUCTION WITHOUT A HEARING BY A VOTE OF AT LEAST TWO–THIRDS OF THE TOTAL MEMBERSHIP OF THE COUNTY COMMISSIONERS.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE PUBLIC HEARING ON A BILL SHALL BE HELD NOT LESS THAN 7 DAYS AFTER INTRODUCTION OF THE BILL.

(II) FOR AN EMERGENCY BILL, THE PUBLIC HEARING SHALL BE HELD NOT LESS THAN 3 DAYS AFTER INTRODUCTION OF THE EMERGENCY BILL.

(3) THE PUBLIC HEARING ON A BILL:

(I) NEED NOT BE HELD ON A LEGISLATIVE DAY; AND

(II) MAY BE ADJOURNED FROM TIME TO TIME.

(C) COPY OF BILL AND NOTICE OF HEARING.

(1) AFTER THE INTRODUCTION OF A BILL, A COPY OF THE BILL AND NOTICE OF THE DATE, TIME, AND PLACE OF THE HEARING SHALL BE POSTED:

(I) AS SOON AS PRACTICABLE;

(II) ON AN OFFICIAL BULLETIN BOARD IN A PUBLIC PLACE IN THE BUILDING IN WHICH THE COUNTY COMMISSIONERS USUALLY MEET; AND

(III) IN A MANNER THAT PROVIDES THE PUBLIC READY ACCESS TO THE COPY OF THE BILL AND THE NOTICE DURING REGULAR BUSINESS HOURS.

(2) ADDITIONAL COPIES OF THE BILL AND NOTICE OF THE HEARING SHALL BE MADE AVAILABLE TO THE PUBLIC.

(D) SPONSOR; INTRODUCTION DATE.

EACH COPY OF A BILL SHALL CONTAIN:

(1) THE NAME OF THE COUNTY COMMISSIONER WHO INTRODUCED THE BILL; AND

(2) THE DATE THE BILL WAS INTRODUCED.

(E) AMENDMENTS.

(1) AN AMENDMENT PROPOSED TO A BILL SHALL BE IN WRITING.

(2) A COPY OF EACH AMENDMENT SHALL BE MADE AVAILABLE FOR INSPECTION BY THE PUBLIC.

(F) PASSAGE OF BILLS.

(1) AFTER A PUBLIC HEARING, A BILL MAY BE FINALLY PASSED ON A LEGISLATIVE DAY WITH OR WITHOUT AMENDMENT.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF A BILL IS AMENDED BEFORE FINAL PASSAGE, THE BILL MAY NOT BE PASSED UNTIL IT IS REPRINTED AS AMENDED.

(II) IF AN EMERGENCY BILL IS AMENDED BEFORE FINAL PASSAGE, THE EMERGENCY BILL NEED NOT BE REPRINTED AS AMENDED.

(3) EXCEPT FOR AN EMERGENCY BILL, A BILL MAY NOT BE PASSED LESS THAN 7 DAYS AFTER ITS INTRODUCTION.

(G) VOTE REQUIRED FOR PASSAGE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, TO BECOME A PUBLIC LOCAL LAW, A BILL SHALL BE PASSED BY AN AFFIRMATIVE VOTE OF THE MAJORITY OF THE TOTAL MEMBERSHIP OF THE COUNTY COMMISSIONERS.

(2) AN EMERGENCY BILL SHALL BE PASSED:

(I) BY AN AFFIRMATIVE VOTE OF AT LEAST FOUR–FIFTHS OF THE TOTAL MEMBERSHIP; OR

(II) IF THE TOTAL MEMBERSHIP IS THREE MEMBERS, BY AN AFFIRMATIVE VOTE OF AT LEAST TWO MEMBERS.

(H) JOURNAL.

(1) THE COUNTY COMMISSIONERS SHALL KEEP A JOURNAL THAT SHALL BE OPEN TO PUBLIC INSPECTION AT ALL REASONABLE TIMES.

(2) ON FINAL PASSAGE OF A BILL, THE YEA AND NAY VOTES SHALL BE RECORDED IN THE JOURNAL.

(I) NOTICE OF PASSAGE OF BILLS.

EACH BILL THAT PASSES, OR A FAIR SUMMARY OF IT, SHALL BE PUBLISHED:

(1) IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY;

(2) AT LEAST THREE TIMES;

(3) AT WEEKLY INTERVALS; AND

(4) WITHIN THE 4–WEEK PERIOD AFTER PASSAGE OF THE BILL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, §§ 11 and 10(d) through (g).

Throughout this section, the former references to a legislative "session" day are deleted to conform to terminology used elsewhere in this subtitle. *See* § 9–309 of this subtitle.

Also throughout this section, the former references to "calendar" days are deleted as surplusage.

In subsection (b)(1)(i) of this section, the reference to the "presiding officer" of the county commissioners is substituted for the former reference to the "president" of the county commissioners for clarity because some boards have a chair, not a president.

In the introductory language of subsection (c)(1) of this section, the reference to the "date" of the hearing is added for clarity and consistency with other similar provisions of this article.

In subsections (c)(2) and (e)(2) of this section, the former references to "the press" are deleted as included in the references to "the public".

In subsection (f)(2) of this section, the former references to a bill being "reproduc[ed]" are deleted as included in the references to the bill being "reprint[ed]".

In subsection (g)(1) of this section, the reference to an "affirmative vote" is added for consistency with subsection (g)(2) of this section.

In subsection (g)(2)(ii) of this section, the reference to a vote of at least "two members" is substituted for the former reference to a vote of "two thirds" for clarity.

In subsection (h)(1) of this section, the former reference to the county commissioners "provid[ing]" for the keeping of a journal is deleted as surplusage.

Defined terms: "Code county" § 1–101
"County" § 1–101
"Public local law" § 9–301

9–312. EFFECTIVE DATES OF PUBLIC LOCAL LAWS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PUBLIC LOCAL LAW ENACTED BY THE COUNTY COMMISSIONERS OF A CODE COUNTY TAKES EFFECT:

(1) 45 DAYS AFTER IT IS ENACTED; OR

(2) AT A LATER DATE SPECIFIED IN THE PUBLIC LOCAL LAW.

(B) EMERGENCY BILLS.

(1) A PUBLIC LOCAL LAW TAKES EFFECT ON THE DATE OF ITS PASSAGE IF IT IS PASSED AS AN EMERGENCY BILL.

(2) AN EMERGENCY BILL MAY NOT:

(I) ABOLISH OR CREATE AN OFFICE;

(II) CHANGE A SALARY, TERM, OR DUTY OF AN OFFICER;

(III) GRANT A FRANCHISE OR SPECIAL PRIVILEGE; OR

(IV) CREATE A VESTED RIGHT OR INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 10(h)(1).

In subsection (a) of this section, the reference to a public local law "tak[ing] effect … at a later date specified in the public local law" is substituted for the former reference to a public local law taking effect "unless by a provision of the public local law it is to take effect at a later date" for brevity and clarity.

In subsection (b) of this section, the former reference to a bill "declared by at least a four–fifths vote of the total membership of the board of county commissioners or two thirds where total board membership is three members to be an emergency bill affecting the public health, safety, or welfare of the county" is deleted as unnecessary in light of the reference to an "emergency bill".

Defined terms: "Code county" § 1–101
"Public local law" § 9–301

9–313. REFERENDUM ON PUBLIC LOCAL LAW.

(A) AUTHORIZED.

(1) THE VOTERS OF A CODE COUNTY MAY SUBMIT TO REFERENDUM, BY PETITION, A PUBLIC LOCAL LAW OR A PART OF A PUBLIC LOCAL LAW ENACTED UNDER THIS SUBTITLE.

(2) THE REFERENDUM SHALL BE:

(I) AT THE NEXT REGULAR CONGRESSIONAL ELECTION UNLESS THE COUNTY COMMISSIONERS, BY RESOLUTION, SCHEDULE A SPECIAL ELECTION;

(II) IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 7 OF THE ELECTION LAW ARTICLE AS TO TIME, NOTICE, AND FORM; AND

(III) FOR ADOPTION OR REJECTION BY A MAJORITY OF THOSE VOTING ON THE QUESTION.

(B) FILING OF REFERENDUM PETITION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A REFERENDUM PETITION SHALL:

(I) BE FILED WITH THE COUNTY BOARD OF ELECTIONS WITHIN 40 DAYS AFTER A PUBLIC LOCAL LAW IS ENACTED; AND

(II) CONTAIN THE SIGNATURES OF AT LEAST 10% OF THE VOTERS OF THE CODE COUNTY.

(2) IF MORE THAN ONE–HALF BUT LESS THAN THE FULL NUMBER OF SIGNATURES REQUIRED TO COMPLETE A REFERENDUM PETITION AGAINST A PUBLIC LOCAL LAW ARE FILED WITHIN 40 DAYS AFTER THE PUBLIC LOCAL LAW IS ENACTED, THE TIME FOR THE PUBLIC LOCAL LAW TO TAKE EFFECT AND THE TIME FOR FILING THE REMAINDER OF SIGNATURES TO COMPLETE THE REFERENDUM PETITION IS EXTENDED FOR AN ADDITIONAL 40 DAYS.

(C) CONTENTS OF REFERENDUM PETITION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A REFERENDUM PETITION MAY CONSIST OF SEVERAL PAPERS.

(2) EACH PAPER SHALL:

(I) CONTAIN THE FULL TEXT OF THE PUBLIC LOCAL LAW OR PART OF THE PUBLIC LOCAL LAW PETITIONED TO REFERENDUM; AND

(II) HAVE ATTACHED TO IT AN AFFIDAVIT OF THE INDIVIDUAL WHO PROCURED THE SIGNATURES ON THE PETITION THAT CERTIFIES THAT TO THE BEST OF THE INDIVIDUAL'S PERSONAL KNOWLEDGE, INFORMATION, AND BELIEF:

1. EACH SIGNATURE ON THE PETITION IS GENUINE; AND

2. THE SIGNERS ARE VOTERS IN THE CODE COUNTY.

(D) VERIFICATION OF VOTER REGISTRATION.

THE COUNTY BOARD OF ELECTIONS SHALL VERIFY THE VOTER REGISTRATION OF EACH SIGNER.

(E) EFFECTIVE DATES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF A LEGALLY SUFFICIENT REFERENDUM PETITION ON A PUBLIC LOCAL LAW IS FILED WITH THE COUNTY BOARD OF ELECTIONS, THE PUBLIC LOCAL LAW DOES NOT TAKE EFFECT UNTIL 30 DAYS AFTER ITS APPROVAL BY A MAJORITY OF THE VOTERS VOTING ON THE QUESTION.

(2) AN EMERGENCY LAW PETITIONED TO REFERENDUM:

(I) REMAINS IN EFFECT FROM ITS EFFECTIVE DATE NOTWITHSTANDING THE FILING OF THE REFERENDUM PETITION; BUT

(II) IS REPEALED 30 DAYS AFTER ITS REJECTION BY A MAJORITY OF THE VOTERS VOTING ON THE QUESTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 10(h)(2) through (5).

In subsection (a)(1) of this section, the reference to the "voters" of a code county is substituted for the former reference to the "citizens" of a code county for accuracy and consistency with subsection (b)(1) of this section.

Also in subsection (a)(1) of this section, the reference to submitting a public local law to "referendum" is substituted for the former reference to submitting a public local law to "the registered voters of the county" for brevity and clarity.

In subsection (b)(1)(i) of this section, the reference to a "public local law" being enacted is substituted for the former reference to a "bill" being enacted for consistency with the terminology used throughout this subtitle.

In subsection (b)(2) of this section, the former phrase "with like effect" is deleted as surplusage.

In subsections (c)(1) and (e) of this section, the references to a "referendum" petition are added for consistency with subsection (b) of this section.

In subsection (c)(2)(ii) of this section, the former phrase "as set opposite their names" is deleted as surplusage.

In subsection (c)(2)(ii)1 of this section, the former reference to the signature on the petition being "bona fide" is deleted as included in the reference to the signature being "genuine".

In subsection (c)(2)(ii)2 of this section, the former reference to a signer being a voter "of the State of Maryland" is deleted as implicit in the requirement that the signer be a voter in the code county.

In subsection (d) of this section, the reference to "each signer" is substituted for the former reference to "the petitioners" for consistency with subsection (c) of this section.

In subsection (e)(1) of this section, the reference to a "legally sufficient" referendum petition is substituted for the former reference to a petition "in compliance with all provisions of law" for brevity.

In the introductory language of (e)(2) of this section, the reference to an emergency bill "petitioned to referendum" is added for clarity.

Defined terms: "Code county" § 1–101
"Public local law" § 9–301
"Voter" § 9–301

9–314. ANNUAL DUTIES REGARDING LOCAL LAWS — CODE COUNTIES.

(A) IN GENERAL.

AT THE END OF EACH CALENDAR OR FISCAL YEAR, EACH CODE COUNTY SHALL COMPILE A COMPLETE SET OF ALL PUBLIC LOCAL LAWS ENACTED BY THE CODE COUNTY DURING THAT YEAR.

(B) PUBLIC INSPECTION OF COPIES OF COMPILATION.

(1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, COPIES OF THE COMPILATION SHALL BE:

(I) KEPT ON PERMANENT RECORD AT THE OFFICE OF THE COUNTY COMMISSIONERS;

(II) MADE AVAILABLE FOR INSPECTION DURING REGULAR BUSINESS HOURS AT THE OFFICE; AND

(III) PROVIDED IN PRINTED FORM WITHOUT CHARGE TO THE STATE ARCHIVES AND THE MARYLAND STATE LAW LIBRARY.

(2) ANNUALLY, EACH CODE COUNTY SHALL PROVIDE EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING ANY PART OF THE COUNTY WITH:

(I) NOTICE THAT A DIGITAL COPY OF THE COMPILATION IS AVAILABLE ON THE INTERNET; OR

(II) A PRINTED COPY OF THE COMPILATION WITHOUT CHARGE.

(3) THE CODE COUNTY MAY MAKE OTHER COPIES OF THE COMPILATION AVAILABLE AT A REASONABLE COST TO ANY PERSON.

(C) PROVIDING COPIES OF COMPILATION TO DEPARTMENT OF LEGISLATIVE SERVICES.

ON OR BEFORE MARCH 1 OF EACH YEAR, THE CODE COUNTY SHALL PROVIDE WITHOUT CHARGE FOUR PRINTED COPIES OF THE COMPILATION TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

(D) STATEMENT ON REFERENDUM ON PROPOSED LAW.

EACH CODE COUNTY SHALL PROVIDE TO THE DEPARTMENT OF LEGISLATIVE SERVICES A STATEMENT THAT INCLUDES INFORMATION ON:

(1) THE RESULTS OF ANY REFERENDUM ON A PUBLIC LOCAL LAW HELD DURING THE PREVIOUS CALENDAR OR FISCAL YEAR; AND

(2) ANY ACTUAL OR POTENTIAL PENDING REFERENDUM THAT HAS NOT BEEN HELD BY THE END OF THE YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 12(a) through (d).

In subsection (a) of this section, the former reference to the compilation being "convenient and legible" is deleted as implicit in the county's obligation to provide the documents in compilation form.

In subsection (c) of this section, the reference to "each" year is substituted for the reference to "the next succeeding" year for clarity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that it is unclear what is meant by the reference to a "potential" pending referendum in subsection (d)(2) of this section.

Defined terms: "Code county" § 1–101
"County" § 1–101
"Person" § 1–101
"Public local law" § 9–301

9–315. ANNUAL DUTIES REGARDING LOCAL LAWS — DEPARTMENT OF LEGISLATIVE SERVICES.

(A) INQUIRY TO CODE COUNTIES.

(1) AT THE END OF EACH CALENDAR YEAR, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL ASK EACH CODE COUNTY WHETHER THE COUNTY HAS ENACTED ANY PART OF ITS PUBLIC LOCAL LAWS DURING THAT CALENDAR YEAR OR ITS LATEST FISCAL YEAR.

(2) THE CODE COUNTY PROMPTLY SHALL:

(I) ANSWER THE INQUIRY; AND

(II) VERIFY THAT COPIES OF THE REQUESTED ENACTMENTS OF PUBLIC LOCAL LAWS ALREADY HAVE BEEN SENT TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

(B) NONCOMPLIANCE BY CODE COUNTIES.

(1) THE DEPARTMENT OF LEGISLATIVE SERVICES PROMPTLY SHALL CERTIFY TO THE COMPTROLLER IF A CODE COUNTY DOES NOT COMPLY WITH SUBSECTION (A) OF THIS SECTION OR § 9–314(C) OR (D) OF THIS SUBTITLE.

(2) IF THE DEPARTMENT OF LEGISLATIVE SERVICES CERTIFIES NONCOMPLIANCE, THE COMPTROLLER MAY DISCONTINUE ALL FUNDS, GRANTS, OR STATE AID THAT THE CODE COUNTY IS ENTITLED TO UNDER STATE LAW RELATING TO:

(I) THE INCOME TAX;

(II) THE TAX ON RACING;

(III) THE RECORDATION TAX;

(IV) THE ADMISSIONS AND AMUSEMENT TAX; AND

(V) LICENSE TAXES OR FEES.

(C) PRINTING AND INDEXING OF COMPILATIONS OF PUBLIC LOCAL LAWS.

THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

(1) ARRANGE IN A LOGICAL AND CONVENIENT ORDER THE TITLES OF THE LAWS OF EACH CODE COUNTY THAT AMENDS ITS CODE OF PUBLIC LOCAL LAWS;

(2) PRINT EACH TITLE, IDENTIFIED AS A TITLE OF THE LAWS OF A CODE COUNTY THAT AMENDS ITS CODE OF PUBLIC LOCAL LAWS, IN THE SESSION LAWS OF THE GENERAL ASSEMBLY FOR ITS REGULAR SESSION IN THAT YEAR; AND

(3) INDEX EACH TITLE WITH OR IN A SUPPLEMENTAL VOLUME TO THE LAWS ENACTED BY THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 12(e) through (g).

In subsection (a)(1) of this section, the former references to public local laws "amended" or "repealed" are deleted as included in the reference to public local laws "enacted".

In subsection (a)(2)(ii) of this section, the reference to "the requested enactments" is substituted for the former reference to "such enactments, amendments, or repeals" for brevity.

In subsection (b)(1) of this section, the reference to a county that "does not comply with subsection (a) of this section or § 9–314(c) or (d) of this subtitle" is substituted for the former reference to the county that "fails or refuses to supply printed copies of this compilation and of the results of any referenda thereon to the State Department of Legislative Services by March 1 of the next succeeding year, or fails or refuses to certify that

there have been no such enactments, amendments, or repeals, or referenda, during the last calendar or fiscal year" for brevity.

In subsection (b)(2)(v) of this section, the reference to the license taxes "or fees" is added for accuracy. When Art. 25B, § 12 was enacted in 1967, licenses were governed by Article 56 of the Code. At that time there were several instances in Article 56 where the language suggested that certain license fees were viewed as a tax. Additionally, there is case law dating back to the late 1800s that supports the assertion that certain fees are viewed as a tax. *See, e.g., State Ins. Comm'r v. Nationwide Mut. Ins. Co.*, 241 Md. 108, 117 (1966); *Ruggles v. State*, 120 Md. 553, 563 (1913); and *Carson v. State*, 57 Md. 251, 255 (1881).

In subsection (c) of this section, the former reference to the Department of Legislative Services "receiv[ing] the compilations and statements delivered to it" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to the titles of the laws being "delivered to the State printer" for inclusion in the Session Laws is deleted as obsolete because the Department of Legislative Services prints the Session Laws of the General Assembly.

Defined terms: "Code county" § 1–101
"County" § 1–101
"Public local law" § 9–301
"State" § 1–101

SUBTITLE 4. CODE COUNTIES AND COMMISSION COUNTIES.

9–401. COUNTY COMMISSIONERS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) NUMBER OF COUNTY COMMISSIONERS SET BY PUBLIC LOCAL LAW.

THE NUMBER OF COUNTY COMMISSIONERS IN EACH COUNTY SHALL BE SET BY THE PUBLIC LOCAL LAWS OF THE COUNTY.

(C) TAKING OFFICE.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY COMMISSIONERS SHALL:

(I) MEET WITHIN 60 DAYS AFTER THEIR ELECTION; AND

(II) QUALIFY BY TAKING THE CONSTITUTIONAL OATH.

(2) THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY SHALL TAKE OFFICE ON THE FIRST MONDAY IN DECEMBER AFTER THEIR ELECTION.

(D) MEETING REQUIREMENTS.

(1) THE COUNTY COMMISSIONERS SHALL MEET AT LEAST ONCE EACH QUARTER.

(2) THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY SHALL MEET AT LEAST 48 TIMES A YEAR.

(3) THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY SHALL HOLD AT LEAST 10 OF THEIR GENERAL MEETINGS EACH YEAR IN THE EVENING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, §§ 5C, 18, and 19.

In subsection (b) of this section, the reference to the "public" local laws is substituted for the former reference to the "code of" local laws to conform to other similar provisions of the Code.

In subsection (c)(1)(i) of this section, the former reference to meeting "in their respective counties" is deleted as implicit.

In subsection (d)(1) of this section, the former reference to the county commissioners meeting "more often if the necessities of the county in their judgment require" is deleted as implicit in light of the phrase "at least".

In subsection (d)(2) of this section, the former reference to the county commissioners meeting "in accordance with the St. Mary's County Open Meetings Act" is deleted as unnecessary in light of the requirements of the St. Mary's County Open Meetings Act in Title 9, Subtitle 5 of this article.

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

9–402. VACANCY IN OFFICE OF COUNTY COMMISSIONER.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO:

(1) COMMISSION COUNTIES; AND

(2) EXCEPT AS OTHERWISE PROVIDED BY LOCAL LAW, CODE COUNTIES.

(B) GOVERNOR TO FILL VACANCY.

(1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF A VACANCY OCCURS IN AN OFFICE OF COUNTY COMMISSIONER, THE GOVERNOR SHALL APPOINT AN INDIVIDUAL TO FILL THE VACANCY.

(2) (I) IF A VACANCY OCCURS DURING A SESSION OF THE SENATE OF MARYLAND, THE GOVERNOR SHALL APPOINT THE INDIVIDUAL WITH THE ADVICE AND CONSENT OF THE SENATE.

(II) IN ALLEGANY COUNTY, IF THERE IS NO RESIDENT SENATOR FROM ALLEGANY COUNTY IN THE SENATE OF MARYLAND AT THE TIME OF THE APPOINTMENT, THE GOVERNOR SHALL APPOINT THE INDIVIDUAL WITH THE ADVICE AND CONSENT OF THE HOUSE OF DELEGATES.

(III) IF A VACANCY OCCURS DURING A RECESS OF THE SENATE OF MARYLAND, THE GOVERNOR SHALL:

1. APPOINT AN INDIVIDUAL DURING THE RECESS; AND

2. SUBMIT TO THE SENATE THE NOMINATION OF THE INDIVIDUAL APPOINTED, OR ANOTHER INDIVIDUAL, NOT LATER THAN 30 DAYS AFTER THE NEXT MEETING OF THE GENERAL ASSEMBLY BEGINS.

(C) NOMINATION PROCESS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION AND SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, THE CENTRAL COMMITTEE OF THE POLITICAL PARTY THAT IS AFFILIATED WITH THE VACATING COUNTY COMMISSIONER SHALL SUBMIT IN WRITING TO THE

GOVERNOR THE NAME OF THE INDIVIDUAL THAT THE POLITICAL PARTY NOMINATES TO FILL THE VACANCY.

(2) THE INDIVIDUAL NOMINATED BY THE CENTRAL COMMITTEE SHALL BE OF THE SAME POLITICAL PARTY AS THE VACATING COUNTY COMMISSIONER.

(3) THE GOVERNOR SHALL NOMINATE OR APPOINT THE INDIVIDUAL WHOSE NAME IS SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 15 DAYS AFTER THE SUBMISSION.

(4) IF THERE IS NO CENTRAL COMMITTEE IN THE COUNTY IN WHICH THE VACANCY OCCURS, THE GOVERNOR SHALL APPOINT AN INDIVIDUAL TO FILL THE VACANCY WHO HAS ALL THE QUALIFICATIONS REQUIRED FOR THE OFFICE OF COUNTY COMMISSIONER IN THE PARTICULAR COUNTY.

(5) IN GARRETT COUNTY, THE NOMINEE OR APPOINTEE SHALL BE A RESIDENT OF THE SAME COMMISSIONER DISTRICT IN WHICH THE FORMER COUNTY COMMISSIONER RESIDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 16.

In this section, the references to an "individual" are substituted for the former references to a "person" or "persons" because only a human being and not the other entities that are included in the definition of "person" can be nominated to fill a vacancy in an office of county commissioner.

In subsection (b)(1) of this section, the former reference to a vacancy occurring "by death, resignation or otherwise" is deleted as unnecessary because it encompasses all types of vacancies.

Also in subsection (b)(1) of this section, the former reference to the appointment of a "proper" individual is deleted as surplusage.

In subsection (b)(2)(iii)2 of this section, the reference to 30 days after the next meeting of the General Assembly "begin[ning]" is added for clarity.

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

9–403. COUNTY COMMISSIONERS AS CORPORATION.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) IN GENERAL.

THE COUNTY COMMISSIONERS OF EACH COUNTY ARE A CORPORATION.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of this section. Charter counties are excluded because the provision is a requirement imposed on county commissioners.

Subsection (b) of this section is new language derived without substantive change from the first sentence of former Art. 25, § 1–1, as it related to the county commissioners being a corporation.

In subsection (b) of this section, the former reference to the county being "declared to be" a corporation is deleted as surplusage.

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

9–404. LEGAL CLAIMS — GENERALLY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) COUNTY AUTHORITY TO SUE.

THE COUNTY COMMISSIONERS MAY SUE AND BE SUED.

(C) LEGAL PROOF OF CLAIM REQUIRED.

THE COUNTY COMMISSIONERS MAY NOT PAY A CLAIM AGAINST THE COUNTY UNLESS:

(1) THE CLAIM IS PAYABLE BY THE COUNTY; AND

(2) THE CLAIMANT PRODUCES LEGAL PROOF OF THE CLAIM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, §§ 17, 23, and 3(k).

In subsection (b) of this section, the former reference to the county commissioners "su[ing] for any injury done to the property of the county, or to recover possession thereof, or may be sued by any claimant of such property" is deleted as included in the reference to the county commissioners "su[ing] or be[ing] sued".

In subsection (c)(2) of this section, the reference to legal "proof of the claim" is substituted for the former reference to a legal "voucher" for clarity.

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

9–405. ETHICS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO A COUNTY THAT HAS ADOPTED LOCAL ETHICS LAWS UNDER §§ 15–804 AND 15–805 OF THE STATE GOVERNMENT ARTICLE IF THE LOCAL ETHICS LAWS HAVE BEEN APPROVED BY THE STATE ETHICS COMMISSION.

(C) INTERESTS IN CONTRACTS PROHIBITED; CLAIMS AGAINST COUNTY PROHIBITED.

DURING A COUNTY COMMISSIONER'S TERM OF OFFICE, THE COUNTY COMMISSIONER MAY NOT:

(1) POSSESS OR ACQUIRE ANY SHARE OR INTEREST IN, OR HAVE OR PARTICIPATE IN, EITHER DIRECTLY OR INDIRECTLY, ANY BENEFIT, PROFIT, OR COMPENSATION OF ANY AGREEMENT OR CONTRACT ENTERED INTO WITH ANY PARTY BY THE COUNTY COMMISSIONERS AS COUNTY COMMISSIONERS; OR

(2) ACCEPT, POSSESS, OR ACQUIRE ANY CLAIM, OR ANY SHARE OR INTEREST IN ANY CLAIM, ON OR AGAINST THE COUNTY OF WHICH THE

INDIVIDUAL IS A COMMISSIONER IF THE CLAIM HAS BEEN OR WILL BE PASSED ON AND APPROVED BY THE COUNTY COMMISSIONERS.

(D) PENALTIES.

(1) IF A COUNTY COMMISSIONER VIOLATES THE PROVISIONS OF THIS SECTION, THE COUNTY COMMISSIONER IS SUBJECT TO PROSECUTION.

(2) A COUNTY COMMISSIONER WHO IS CONVICTED UNDER THIS SECTION SHALL FORFEIT:

(I) THE OFFICE; AND

(II) THE COUNTY COMMISSIONER'S SHARE OR INTEREST IN THE AGREEMENT, CONTRACT, OR CLAIM IN WHICH THE COUNTY COMMISSIONER WAS INVOLVED.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of this section. Charter counties are excluded because the provision is a duty imposed on county commissioners.

Subsections (b) through (d) of this section are new language derived without substantive change from former Art. 25, §§ 30, 31, and 32.

In subsection (c) of this section, the former references to "hold[ing]" and "purchas[ing]" any share or interest are deleted as included in the references to "possess[ing]" and "acquir[ing]" any share or interest. Similarly, the former references to "receiv[ing]" and "enjoy[ing]" benefits, profits, or compensation are deleted as included in the references to "hav[ing]" and "participat[ing]" benefits, profits, or compensation.

In subsection (c)(1) of this section, the former reference to "parties" is deleted in light of the reference to "any party" 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 the county commissioners "in their character and capacity" as county commissioners is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to approval by the county commissioners "of which he is a member" is deleted as surplusage.

In subsection (d)(1) of this section, the reference to a county commissioner being "subject to prosecution" is substituted for the former reference to a county commissioner being "liable to indictment" to conform to other similar provisions of the Code.

The Local Government Article Review Committee notes, for consideration by the General Assembly that this section may be obsolete in light of the requirements under Title 15, Subtitle 8 of the State Government Article to enact local public ethics laws.

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

9–406. PAYMENT OF PREMIUM FOR BONDS OF COUNTY OFFICIALS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO A CLERK OF COURT OR A SHERIFF.

(C) BONDS EXECUTED AND APPROVED.

IF A COUNTY TREASURER, TAX COLLECTOR, COUNTY COMMISSIONER, OR ANY COUNTY OFFICIAL IS REQUIRED BY LAW TO GIVE A BOND:

(1) THE COUNTY OFFICIAL SHALL GIVE A BOND EXECUTED BY A SURETY COMPANY THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND

(2) THE BOND SHALL BE APPROVED BY THE COUNTY.

(D) PAYMENT OF PREMIUM FOR BONDS OF COUNTY OFFICIALS.

(1) THE COUNTY MAY PAY THE PREMIUM FOR A BOND GIVEN UNDER SUBSECTION (C) OF THIS SECTION, NOT TO EXCEED 0.5% PER YEAR OF THE PENALTY OF AN EXECUTED AND APPROVED BOND.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, WHEN A BOND IS EXECUTED AND APPROVED, THE COUNTY COMMISSIONERS MAY DIRECT THE PAYMENT OF THE PREMIUM OF THE BOND FROM THE GENERAL FUND OF THE COUNTY IN THE SAME MANNER AS REQUIRED TO PAY GENERAL COUNTY DEBTS.

(II) THE PAYMENT OF THE PREMIUM ON THE BOND GIVEN BY A REGISTER OF WILLS OR STATE'S ATTORNEY SHALL BE CHARGED AS AN EXPENSE OF THAT OFFICER.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of this section. Charter counties are excluded because the provision is a duty imposed on county commissioners.

Subsections (b) through (d) of this section are new language derived without substantive change from former Art. 25, § 33.

In the introductory language of subsection (c) of this section, the reference to any "county official" is substituted for the former reference to any "officer … coming within the common meaning of a county official" for brevity.

In subsection (c)(1) of this section, the reference to a surety company that is authorized "to do business in the State" is substituted for the former reference to a surety company that is authorized "by the laws of the State of Maryland to execute such bonds" for brevity.

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

SUBTITLE 5. ST. MARY'S COUNTY OPEN MEETINGS ACT.

9–501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 4–202(a).

No changes are made.

(B) OFFICIAL ACTION.

"OFFICIAL ACTION" MEANS A PHASE OF THE PROCESS IN WHICH A PUBLIC AGENCY IN ST. MARY'S COUNTY MAKES A DECISION OR RECOMMENDATION, INCLUDING RECEIPT OF INFORMATION AND DELIBERATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 24, § 4–202(c).

The reference to a public agency "in St. Mary's County" is added for clarity.

(C) PUBLIC AGENCY.

(1) "PUBLIC AGENCY" MEANS:

(I) A GOVERNMENTAL UNIT OF ST. MARY'S COUNTY, INCLUDING AN ADVISORY OR QUASI–JUDICIAL AGENCY, THAT IS:

1. SUPPORTED IN ANY PART BY PUBLIC MONEY; OR

2. AUTHORIZED TO SPEND PUBLIC MONEY; AND

(II) THE ST. MARY'S COUNTY BOARD OF EDUCATION.

(2) "PUBLIC AGENCY" INCLUDES A SUBCOMMITTEE OR OTHER SUBORDINATE UNIT OF A GOVERNMENTAL UNIT LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) "PUBLIC AGENCY" DOES NOT INCLUDE:

(I) A GRAND JURY;

(II) A PETIT JURY;

(III) A LAW ENFORCEMENT AGENCY; OR

(IV) THE JUDICIAL BRANCH.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 24, §§ 4–209 and 4–202(d).

In paragraph (1) of this subsection, the reference to a "governmental unit" is substituted for the former reference to an "agency, assembly, authority, board, bureau, commission, committee, counsel, or department" for brevity and consistency with terminology used throughout this article.

(D) PUBLIC AGENCY MEETING.

"PUBLIC AGENCY MEETING" MEANS THE CONVENING OF A QUORUM OF THE CONSTITUENT MEMBERSHIP OF A PUBLIC AGENCY TO DELIBERATE OR ACT ON A MATTER UNDER THE SUPERVISION, CONTROL, JURISDICTION, OR ADVISORY POWER OF THE PUBLIC AGENCY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 24, § 4–202(b).

Defined terms: "Public agency" § 9–501
"Quorum" § 9–501

(E) QUORUM.

"QUORUM", UNLESS OTHERWISE DEFINED BY APPLICABLE LAW, MEANS A SIMPLE MAJORITY OF THE CONSTITUENT MEMBERSHIP OF A PUBLIC AGENCY.

REVISOR'S NOTE: This subsection formerly was Art. 24, § 4–202(f).

The only changes are in style.

Defined term: "Public agency" § 9–501

(F) STAFF MEETING.

"STAFF MEETING" MEANS A MEETING OF THREE OR MORE STAFF MEMBERS OF ONE OR MORE PUBLIC AGENCIES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 24, § 4–202(g).

The reference to "three or more staff members of one or more public agencies" is substituted for the former reference to "three or more staff or a combination of three or more staff members of a public agency" for brevity.

The former reference to "a combination of three or more staff members" is deleted as surplusage.

Defined term: "Public agency" § 9–501

REVISOR'S NOTE TO SECTION:

Former Art. 24, § 4–202(e), which defined "public business" to mean all matters within the jurisdiction of a public agency which are before an

agency for official action or which reasonably, foreseeably may come before that agency in the future, is deleted because the term is no longer used in this subtitle.

9–502. PUBLIC POLICY.

IT IS THE POLICY OF ST. MARY'S COUNTY THAT:

(1) PUBLIC OFFICIALS SHALL ENGAGE IN OFFICIAL ACTION IN AN OPEN AND PUBLIC MANNER SO THAT VOTERS ARE ADVISED OF THE PERFORMANCE OF PUBLIC OFFICIALS AND OF DECISIONS MADE IN FORMING PUBLIC POLICY;

(2) PUBLIC AGENCIES EXIST TO AID IN CONDUCTING THE PEOPLE'S BUSINESS;

(3) THE PEOPLE OF THE COUNTY, IN DELEGATING AUTHORITY, DO NOT YIELD THEIR SOVEREIGNTY OR GIVE PUBLIC AGENCIES THE RIGHT TO DECIDE WHAT IS GOOD FOR THE PEOPLE TO KNOW AND WHAT IS NOT GOOD FOR THEM TO KNOW; AND

(4) THE RIGHT OF THE PEOPLE TO REMAIN INFORMED IS PROTECTED SO THAT THEY MAY RETAIN CONTROL OVER THE INSTRUMENTS THEY CREATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–201.

In this section, the former statement that "[p]ublic agencies shall deliberate matters and take action on them, openly" is deleted as included in the reference to public officials "engag[ing] in official action in an open and public manner".

In item (1) of this section, the reference to "engag[ing] in official action" is substituted for the former reference to "conduct[ing] the entire process of public business" for clarity and brevity.

Also in item (1) of this section, the reference to decisions "made in forming" public policy is substituted for the former reference to decisions "that are reached in public activity and in making" public policy for brevity.

Defined terms: "Official action" § 9–501
"Public agency" § 9–501

9–503. CONFLICT WITH ANOTHER STATUTE, ORDINANCE, REGULATION, OR RULE.

THIS SUBTITLE PREVAILS IF IT CONFLICTS WITH ANOTHER STATUTE, ORDINANCE, REGULATION, OR RULE, UNLESS THE OTHER STATUTE, ORDINANCE, REGULATION, OR RULE IS MORE STRINGENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–214.

9–504. OPEN MEETINGS OF PUBLIC AGENCY.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN § 9–512 OF THIS SUBTITLE, A PUBLIC AGENCY MEETING AT WHICH OFFICIAL ACTION IS TAKEN SHALL BE OPEN TO THE PUBLIC.

(B) MEETINGS TO PURCHASE OR DISPOSE OF REAL PROPERTY.

A FINAL DECISION WHETHER TO PURCHASE OR DISPOSE OF REAL PROPERTY SHALL BE AT A PUBLIC AGENCY MEETING OPEN TO THE PUBLIC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, §§ 4–203(a) and the first sentence of 4–210(e).

In subsection (a) of this section, the former reference to "public business" is deleted as implicit in the reference to a "public agency meeting".

In subsection (b) of this section, the reference to a "final" decision is added for clarity in light of § 9–512(a) of this subtitle which allows preliminary discussions concerning the purchase or disposition of real property to be conducted in a closed session.

Defined terms: "Official action" § 9–501
"Public agency meeting" § 9–501

9–505. NOTICE.

(A) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO A STAFF MEETING.

(B) IN GENERAL.

A PUBLIC AGENCY SHALL PROVIDE WRITTEN PUBLIC NOTICE OF THE SCHEDULE OF ITS REGULAR PUBLIC AGENCY MEETINGS, INCLUDING THEIR DATES, TIMES, AND PLACES:

(1) AT THE BEGINNING OF EACH CALENDAR OR FISCAL YEAR; OR

(2) AT THE TIME THE PUBLIC AGENCY BEGINS TO FUNCTION.

(C) SUPPLEMENTAL NOTICE.

(1) EXCEPT AS PROVIDED IN § 9–506 OR § 9–507 OF THIS SUBTITLE, A PUBLIC AGENCY SHALL PROVIDE SUPPLEMENTAL WRITTEN PUBLIC NOTICE OF ANY SPECIAL OR RESCHEDULED PUBLIC AGENCY MEETING AT LEAST 48 HOURS BEFORE THE MEETING.

(2) THE NOTICE SHALL INCLUDE THE AGENDA, DATE, TIME, AND PLACE OF THE PUBLIC AGENCY MEETING.

(D) METHODS OF PROVIDING NOTICE.

A PUBLIC AGENCY SHALL PROVIDE WRITTEN PUBLIC NOTICE BY:

(1) POSTING A COPY OF THE NOTICE PROMINENTLY AT THE PRINCIPAL OFFICE OF THE PUBLIC AGENCY OR AT THE BUILDING IN WHICH THE PUBLIC AGENCY MEETING IS TO BE HELD; AND

(2) SENDING A COPY OF THE NOTICE TO ANY PERSON WHO REQUESTS TO BE NOTIFIED OF THE PUBLIC AGENCY MEETINGS.

(E) NOTICE OF PURCHASE OR DISPOSAL OF REAL PROPERTY.

A PUBLIC AGENCY SHALL GIVE NOTICE OF INTENT TO PURCHASE OR DISPOSE OF REAL PROPERTY AT LEAST 15 DAYS BEFORE A VOTING SESSION ON THE ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, §§ 4–204(a), (b), (c), and (e) and the second sentence of 4–210(e).

In subsection (c)(1) of this section, the reference to "§ 9–506" of this subtitle is added for clarity.

In the introductory language of subsection (d) of this section, the former reference to providing public notice "as a minimum" is deleted as surplusage.

Defined terms: "Person" § 1–101
"Public agency" § 9–501
"Public agency meeting" § 9–501
"Staff meeting" § 9–501

9–506. RECONVENED PUBLIC AGENCY MEETINGS.

A PUBLIC AGENCY MEETING MAY BE ADJOURNED AND RECONVENED AT ANOTHER TIME WITHOUT ADDITIONAL PUBLIC NOTICE IF:

(1) NOTICE OF THE TIME AND PLACE OF THE RECONVENED MEETING IS PROVIDED BEFORE ADJOURNMENT;

(2) THE AGENDA FOR THE RECONVENED MEETING IS PUBLISHED IN ADVANCE; AND

(3) THE AGENDA FOR THE ORIGINAL MEETING IS AVAILABLE TO OBSERVERS AT THE BEGINNING OF THE ORIGINAL MEETING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–205.

In item (3) of this section, the reference to the agenda "for the original meeting" is added for clarity.

Defined term: "Public agency meeting" § 9–501

9–507. EMERGENCY PUBLIC AGENCY MEETINGS.

(A) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO A STAFF MEETING.

(B) IN GENERAL.

A PUBLIC AGENCY MAY SCHEDULE AN EMERGENCY PUBLIC AGENCY MEETING TO DISCUSS UNFORESEEN EMERGENCY CONDITIONS.

(C) REASONABLE EFFORT REQUIRED TO PROVIDE NOTICE.

A PUBLIC AGENCY SHALL MAKE A REASONABLE EFFORT TO PROVIDE NOTICE OF THE DATE, TIME, AND PLACE OF AN EMERGENCY PUBLIC AGENCY MEETING BY TELEPHONE TO THE NEWS MEDIA IMMEDIATELY AFTER PARTICIPANTS HAVE BEEN NOTIFIED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–204(d) and (e).

Defined terms: "Public agency" § 9–501
"Public agency meeting" § 9–501
"Staff meeting" § 9–501

9–508. MEETING MINUTES.

(A) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO:

(1) A STAFF MEETING; OR

(2) A WORKING SESSION IF A FINAL DECISION IS NOT MADE.

(B) REQUIRED FOR PUBLIC MEETINGS.

A PUBLIC AGENCY SHALL TAKE AND, IN A TIMELY MANNER, RECORD MINUTES OF EACH PUBLIC AGENCY MEETING OPEN TO THE PUBLIC.

(C) OPEN FOR INSPECTION AND COPYING.

MINUTES OF A PUBLIC AGENCY MEETING ARE A PUBLIC RECORD OPEN FOR INSPECTION AND COPYING BY ANY PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–207.

In subsection (b) of this section, the reference to a public agency meeting "open to the" public is added for clarity.

Defined terms: "Person" § 1–101
"Public agency" § 9–501
"Public agency meeting" § 9–501
"Staff meeting" § 9–501

9–509. BROADCASTING AND RECORDING OF MEETING.

(A) IN GENERAL.

A PUBLIC AGENCY THAT CONDUCTS A MEETING THAT IS OPEN TO THE PUBLIC SHALL ALLOW RECORDED OR LIVE RADIO AND TELEVISION BROADCASTING AND THE USE OF RECORDING DEVICES.

(B) RULES AND REGULATIONS.

A PUBLIC AGENCY MAY ADOPT RULES AND REGULATIONS REGARDING THE RECORDING AND BROADCASTING OF PUBLIC AGENCY MEETINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–208.

In subsection (b) of this section, the former reference to "reasonable" rules and regulations is deleted as implicit in the authorization to adopt rules and regulations.

Defined terms: "Public agency" § 9–501
"Public agency meeting" § 9–501

9–510. STAFF MEETINGS.

EXCEPT AS PROVIDED IN § 9–512 OF THIS SUBTITLE, A STAFF MEETING SHALL BE OPEN TO THE PUBLIC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–203(b).

The phrase "[e]xcept as provided in § 9–512 of this subtitle" is added to clarify that a staff meeting may be conducted in a closed session under certain circumstances as provided in § 9–512 of this subtitle.

Defined term: "Staff meeting" § 9–501

9–511. MEETING LOCATION.

A PUBLIC AGENCY MEETING THAT IS REQUIRED TO BE OPEN TO THE PUBLIC UNDER THIS SUBTITLE SHALL BE CONDUCTED IN A LOCATION WITH REASONABLE FACILITIES FOR PUBLIC OBSERVATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–206.

Defined term: "Public agency meeting" § 9–501

9–512. CLOSED SESSIONS.

(A) AUTHORIZED.

A PUBLIC AGENCY MEETING OR A STAFF MEETING MAY BE CONDUCTED IN A CLOSED SESSION ONLY:

(1) TO CONSIDER OR DISCUSS THE ASSIGNMENT, PROMOTION, RESIGNATION, SALARY, DEMOTION, DISMISSAL, REPRIMAND, OR APPOINTMENT OF A MEMBER OF A PUBLIC AGENCY OR EMPLOYEE, UNLESS THE INDIVIDUAL, AS A MATTER OF PUBLIC RECORD, MAKES A WRITTEN REQUEST FOR AN OPEN SESSION;

(2) TO DISCUSS STRATEGY IN COLLECTIVE BARGAINING OR LITIGATION;

(3) TO ENGAGE IN COLLECTIVE BARGAINING;

(4) TO DISCUSS THE DISTRIBUTION OF POLICE FORCES TO COPE WITH PUBLIC SAFETY EMERGENCIES;

(5) TO DISCUSS COST ESTIMATES FOR CAPITAL PROJECTS TO BE SUBSEQUENTLY PLACED THROUGH THE BIDDING PROCESS;

(6) TO HOLD PRELIMINARY DISCUSSIONS CONCERNING THE PURCHASE OR DISPOSITION OF REAL PROPERTY;

(7) WHEN STATE LAW OR FEDERAL REGULATION PROHIBITS A MEETING OPEN TO THE PUBLIC;

(8) TO MEET A CONDITION FOR ANONYMITY OF A DONOR CONTAINED IN A GIFT OR BEQUEST TO THE PUBLIC AGENCY;

(9) WHEN SECRECY IS NECESSARY TO PREVENT THE PREMATURE DISCLOSURE OF THE FORMAT OR CONTENT OF EXAMINATIONS OR THE DISCLOSURE OF RESULTS OF EXAMINATIONS AS RELATED TO INDIVIDUAL STUDENTS; OR

(10) IF THE MEETING IS CONDUCTED BY THE COUNTY BOARD OF EDUCATION OR ITS STAFF TO:

(I) CONSIDER THE DISCIPLINE OF A STUDENT, UNLESS THE PARENT, GUARDIAN, OR STUDENT REQUESTS AN OPEN SESSION OF THE COUNTY BOARD OF EDUCATION; OR

(II) DISCUSS SPECIFIC STUDENTS, FAMILIES, OR PERSONNEL AND THE DISCLOSURE OF THE DISCUSSIONS COULD PROVE DETRIMENTAL OR HARMFUL TO THOSE INDIVIDUALS.

(B) NOTICE; RESTRICTIONS.

(1) A CLOSED SESSION SHALL BE ANNOUNCED IN ADVANCE AT A MEETING THAT IS OPEN TO THE PUBLIC.

(2) AN ANNOUNCEMENT OF A CLOSED SESSION SHALL INCLUDE THE NATURE OF THE BUSINESS OF THE CLOSED SESSION.

(3) THE CLOSED SESSION SHALL BE LIMITED TO THE MATTERS DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

(C) MINUTES.

THE MINUTES OF THE NEXT OPEN SESSION SHALL INCLUDE THE JUSTIFICATION FOR HOLDING THE CLOSED SESSION, THE NAMES OF THOSE IN ATTENDANCE, AND THE TIMES THE MEETING BEGINS AND ENDS.

(D) FINAL ACTION PROHIBITED.

AN ORDINANCE, RESOLUTION, RULE, REGULATION, OR DECISION MAY NOT BE FINALLY ADOPTED AT A CLOSED SESSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–210(a) through (d).

In this section, the references to a "closed" session are substituted for the former references to an "executive" session for consistency with the terminology used in the State Open Meetings Act.

In subsection (c) of this section, the reference to the minutes "of the next open session" is added for clarity and consistency with § 10–509(c)(2) of the State Government Article.

Also in subsection (c) of this section, the former reference to "the reason for the session" is deleted as included in the reference to the "justification for holding the closed session".

Also in subsection (c) of this section, the former phrase "but need not be limited to that, at the discretion of the body holding the meeting" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "include" is used by way of illustration and not by way of limitation.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to alter subsection (a)(1) of this section to conform to the State Open Meetings Act, which allows a closed session for any personnel matter relating to a specific individual. Additionally, the General Assembly may wish to alter subsection (a)(9) of this section to conform to the State Open Meetings Act, which allows a closed session to "prepare, administer, or grade a scholastic, licensing, or qualifying examination".

The Local Government Article Review Committee also notes, for consideration by the General Assembly, that it is unclear whether subsection (d) of this section applies to staff meetings.

Defined terms: "Public agency" § 9–501
"Public agency meeting" § 9–501
"Staff meeting" § 9–501
"State" § 1–101

9–513. RULES AND REGULATIONS.

A PUBLIC AGENCY MAY ADOPT RULES AND REGULATIONS TO MAINTAIN ORDER AT ITS PUBLIC AGENCY MEETINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–215.

The phrase "[a] public agency may adopt" is substituted for the former phrase "[t]his subtitle does not prevent a public agency from adopting" to state expressly that which was only implied in the former law, that a public agency may adopt rules and regulations.

The former reference to "reasonable" rules and regulations is deleted as implicit in the authorization to adopt rules and regulations.

Defined terms: "Public agency" § 9–501
"Public agency meeting" § 9–501

9–514. JUDICIAL REVIEW.

(A) AUTHORIZED.

(1) A PERSON DENIED A RIGHT CONFERRED BY THIS SUBTITLE MAY FILE A COMPLAINT FOR MANDAMUS, INJUNCTION, OR OTHER APPROPRIATE REMEDY IN CIRCUIT COURT.

(2) A PLAINTIFF NEED NOT ALLEGE OR PROVE AN IRREPARABLE INJURY OR AN INJURY DIFFERENT FROM THE PUBLIC AT LARGE.

(B) FILING DEADLINE.

A COMPLAINT UNDER THIS SECTION SHALL BE FILED WITHIN 1 YEAR AFTER THE DATE OF THE ALLEGED VIOLATION.

(C) HEARING DEADLINE.

THE COURT SHALL CONDUCT A HEARING WITHIN 7 DAYS AFTER A COMPLAINT IS FILED.

(D) NATURE OF VIOLATION.

A VIOLATION OF THIS SUBTITLE IS DEEMED AN INJURY TO THE PUBLIC AT LARGE.

(E) RELIEF.

(1) THE COURT SHALL ISSUE AN ORDER THAT:

(I) GRANTS OR DENIES ALL OR PART OF THE RELIEF SOUGHT;

(II) AWARDS APPROPRIATE ATTORNEY'S FEES OR COSTS; AND

(III) DETERMINES THE EFFECT OF THE ACTION ALLEGED TO BE IN VIOLATION OF THIS SUBTITLE.

(2) THE COURT MAY VOID AN ACTION TAKEN AT A PUBLIC AGENCY MEETING IN VIOLATION OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, §§ 4–213 and 4–212(a).

In subsection (a)(1) of this section, the reference to "fil[ing] a complaint" is substituted for the former reference to "commenc[ing] a civil action by

petitioning" for brevity. Correspondingly, in subsection (b) of this section, the reference to a "complaint" is substituted for the former reference to an "action".

Also in subsection (a)(1) of this section, the reference to filing a complaint "in circuit court" is substituted for the former reference to filing "in any court of competent jurisdiction" and the former statement "[t]he circuit courts of this State have jurisdiction over any civil action brought to enforce the provisions of this subtitle" for brevity.

In subsection (b) of this section, the former reference to "[t]he provisions of this subtitle apply[ing] to conduct and actions occurring after July 1, 1976" is deleted as obsolete.

In subsection (d) of this section, the reference to a violation being "deemed" an injury to the public at large is added for clarity.

In subsection (e)(2) of this section, the former reference to an action being "null" is deleted as included in the reference to an action being "void".

Defined terms: "Person" § 1–101
"Public agency meeting" § 9–501

9–515. PENALTY.

(A) KNOWING AND WILLFUL VIOLATIONS.

(1) A PERSON WHO KNOWINGLY VIOLATES THIS SUBTITLE MORE THAN TWICE IS GUILTY OF A MISDEMEANOR.

(2) A PERSON WHO WILLFULLY VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(B) PRESUMPTION THAT VIOLATION IS NOT WILLFUL.

IF A CIVIL ORDER FINDING THE DEFENDANT IN VIOLATION OF THIS SUBTITLE IS NOT ENTERED AT LEAST ONCE BEFORE THE OCCURRENCE OF AN ALLEGED MISDEMEANOR, A VIOLATION OF THIS SUBTITLE IS PRESUMED NOT TO BE WILLFUL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, §§ 4–211 and 4–212(b).

The Local Government Article Review Committee notes, for consideration by the General Assembly, that it is not clear how paragraphs (1) and (2) of subsection (a) of this section are supposed to be read together – whether a violation "knowing[ly]" is different from a violation "willful[ly]", and whether the penalties for a violation "knowing[ly]" are the same as those for a violation "willful[ly]". The General Assembly may wish to clarify this provision.

The Local Government Article Review Committee also notes, for consideration by the General Assembly, that in subsection (b) of this section, it is not clear what the consequences would be if a violation of this subtitle is not presumed to be willful.

Defined term: "Person" § 1–101

9–516. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE "ST. MARY'S COUNTY OPEN MEETINGS ACT".

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 24, § 4–216.

TITLE 10. EXPRESS POWERS ACT.

SUBTITLE 1. GENERAL PROVISIONS.

10–101. SCOPE OF TITLE.

THIS TITLE DOES NOT APPLY TO BALTIMORE CITY.

REVISOR'S NOTE: This section is new language added to clarify that this title, which revises the Express Powers Act under former Art. 25A, § 5, does not apply to Baltimore City.

10–102. GRANT OF EXPRESS POWERS.

(A) CHARTER COUNTIES.

IN ADDITION TO OTHER POWERS GRANTED TO CHARTER COUNTIES, EACH CHARTER COUNTY MAY EXERCISE BY LEGISLATIVE ENACTMENT THE EXPRESS POWERS PROVIDED IN SUBTITLES 2 AND 3 OF THIS TITLE.

(B) CODE COUNTIES.

IN ADDITION TO OTHER POWERS GRANTED TO CODE COUNTIES, EACH CODE COUNTY MAY EXERCISE BY LEGISLATIVE ENACTMENT THE EXPRESS POWERS PROVIDED IN SUBTITLE 3 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25B, § 13 and Art. 25A, § 4(a) and the introductory clause of § 5.

In subsections (a) and (b) of this section, the phrase "by legislative enactment" is added to clarify that the express powers provided in Subtitles 2 and 3 are a grant of legislative authority.

In subsection (a) of this section, the reference to "each charter county" is substituted for the former reference to "any county among the geographical subdivisions of this State, as that term is defined in § 4 of Article XI–A of the Constitution of the State, [having] adopted for itself a charter or form of government under the provisions of said Article XI–A of the Constitution" for brevity.

Also in subsection (a) of this section, the reference to the "express powers provided in Subtitles 2 and 3 of this title" is substituted for the former references to the "following express powers" and the "following enumerated express powers" for clarity.

Also in subsection (a) of this section, the reference to "other powers granted to charter counties" is substituted for the former reference to "powers codified in Article 25 of the Code, title County Commissioners" to reflect the recodification of those provisions in this article.

In subsection (b) of this section, the reference to "each" code county is substituted for the former reference to the requirement that "no county adopting code home rule status shall be excepted" for brevity.

Also in subsection (b) of this section, the reference to "the express powers provided in Subtitle 3 of this title" is substituted for the former reference to "those powers enumerated … in § 5 of Article 25A, except for subsections (A), (P) and (S) of § 5 of Article 25A, of the Annotated Code of Maryland, 1957 Edition as amended" for clarity and brevity. Subtitle 2 of this title revises Art. 25A, § 5(A), (P), and (S), and Subtitle 3 of this title revises the remainder of Art. 25A, § 5.

Also in subsection (b) of this section, the reference to other powers "granted to code counties under this article" is substituted for the former reference to powers "enumerated in Article 25" and "powers any county may now have under any public general or local law applicable to the county" for brevity.

Defined terms: "Charter county" § 1–101
"Code county" § 1–101

SUBTITLE 2. EXPRESS POWERS OF CHARTER COUNTIES.

10–201. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY TO CHARTER COUNTIES.

REVISOR'S NOTE: This section is new language added to clarify the scope of this subtitle.

Defined term: "Charter county" § 1–101

10–202. LOCAL LAWS.

(A) ENACTMENT.

A COUNTY MAY ENACT LOCAL LAWS AND MAY REPEAL OR AMEND ANY LOCAL LAW ENACTED BY THE GENERAL ASSEMBLY ON ANY MATTER COVERED BY THE EXPRESS POWERS IN THIS TITLE.

(B) ENFORCEMENT OF ORDINANCES, RESOLUTIONS, BYLAWS, AND REGULATIONS.

A COUNTY MAY PROVIDE FOR THE ENFORCEMENT OF AN ORDINANCE, A RESOLUTION, A BYLAW, OR A REGULATION ADOPTED UNDER THIS TITLE:

(1) BY CIVIL FINES NOT EXCEEDING $1,000; OR

(2) BY CRIMINAL FINES AND PENALTIES NOT EXCEEDING $1,000 AND IMPRISONMENT NOT EXCEEDING 6 MONTHS.

(C) ENFORCEMENT OF FAIR HOUSING LAWS.

A COUNTY MAY PROVIDE FOR THE ENFORCEMENT OF LOCAL FAIR HOUSING LAWS BY FINES OR PENALTIES THAT DO NOT EXCEED THE FINES OR PENALTIES PROVIDED IN THE FEDERAL FAIR HOUSING ACT AMENDMENTS OF 1988 FOR ENFORCEMENT OF SIMILAR FEDERAL FAIR HOUSING LAWS.

(D) ENFORCEMENT OF DISCRIMINATION LAWS.

A COUNTY MAY PROVIDE FOR THE ENFORCEMENT OF LOCAL EMPLOYMENT DISCRIMINATION LAWS OR PUBLIC ACCOMMODATIONS

DISCRIMINATION LAWS BY CIVIL FINES NOT EXCEEDING $5,000 FOR ANY OFFENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(A).

In subsection (a) of this section, the former reference to local laws "for the county" and "of the county" are deleted as surplusage.

Also in subsection (a) of this section, the reference to "this title" is substituted for the former reference to "this article" because all of the express powers provided in former Article 25A are set forth in this title.

In subsection (b) of this section, the reference to "civil" fines is added for accuracy. Former Art. 25A, § 5(A)(4) was added by Chapter 278 of the Acts of the General Assembly of 1995. Legislative history indicates that the $5,000 cap on fines was intended as an exception to the general $1,000 limit on fines, providing support for the interpretation that the $1,000 limit on fines and penalties found in this subsection was intended to apply to civil as well as criminal fines. Additionally, the case of *Beretta v. Santos*, 122 Md. App. 168 (1998) and the Opinion of the Attorney General, 87 Op. Att'y Gen. 55 (2002), both support the interpretation that the $1,000 limit applies to civil fines.

In subsection (b) of this section, the former reference to fines, penalties, and imprisonment "enforceable according to law as may be prescribed" is deleted as surplusage.

In subsection (b)(1) of this section, the reference to "civil" fines is added for clarity to distinguish between the authority of a county to provide for the enforcement of ordinances, resolutions, bylaws, and regulations by civil fines and by criminal fines and imprisonment.

In subsection (b)(2) of this section, the reference to "criminal" fines and penalties is added for clarity to distinguish between the authority of a county to provide for the enforcement of ordinances, resolutions, bylaws, and regulations by criminal fines, penalties, and imprisonment and by civil fines and penalties.

10–203. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS.

(A) IN GENERAL.

(1) SUBJECT TO ANY LIMIT IMPOSED BY A COUNTY CHARTER AND THIS SUBSECTION, A COUNTY MAY PROVIDE FOR THE BORROWING OF MONEY ON

THE FAITH AND CREDIT OF THE COUNTY AND FOR THE ISSUANCE OF BONDS OR OTHER EVIDENCES OF INDEBTEDNESS IN ACCORDANCE WITH LOCAL LAW.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AGGREGATE AMOUNT OF BONDS AND OTHER EVIDENCES OF INDEBTEDNESS OUTSTANDING AT ANY ONE TIME MAY NOT EXCEED THE SUM OF 6% OF THE ASSESSABLE BASIS OF ALL REAL PROPERTY IN THE COUNTY PLUS 15% OF THE COUNTY'S ASSESSABLE BASIS OF PERSONAL PROPERTY AND OPERATING REAL PROPERTY AS DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE.

(II) THE FOLLOWING EVIDENCES OF INDEBTEDNESS MAY NOT BE CONSIDERED AS BONDS OR EVIDENCES OF INDEBTEDNESS IN APPLYING THE LIMITS IN THIS SUBSECTION:

1. TAX ANTICIPATION NOTES OR OTHER EVIDENCES OF INDEBTEDNESS HAVING A MATURITY NOT IN EXCESS OF 12 MONTHS;

2. BONDS OR OTHER EVIDENCES OF INDEBTEDNESS ISSUED OR GUARANTEED BY THE COUNTY PAYABLE PRIMARILY OR EXCLUSIVELY FROM TAXES LEVIED IN OR ON, OR OTHER REVENUES OF, SPECIAL TAXING DISTRICTS; AND

3. BONDS OR OTHER EVIDENCES OF INDEBTEDNESS ISSUED FOR SELF–LIQUIDATING AND OTHER PROJECTS PAYABLE PRIMARILY OR EXCLUSIVELY FROM THE PROCEEDS OF ASSESSMENTS OR CHARGES FOR SPECIAL BENEFITS OR SERVICES.

(3) (I) IF A PETITION FOR SUBMISSION TO REFERENDUM IS FILED IN ACCORDANCE WITH THE COUNTY CHARTER AND LOCAL LAWS OF A COUNTY, A LOCAL LAW AUTHORIZING THE BORROWING OF MONEY OR ISSUANCE OF BONDS OR OTHER EVIDENCES OF INDEBTEDNESS SHALL BE SUBMITTED TO THE VOTERS OF THE COUNTY FOR APPROVAL OR REJECTION.

(II) IF THE COUNTY CHARTER DOES NOT CONTAIN A PROVISION FOR SUBMISSION TO REFERENDUM, A LOCAL LAW THAT AUTHORIZES THE BORROWING OF MONEY OR ISSUANCE OF BONDS OR OTHER EVIDENCES OF INDEBTEDNESS SHALL BE SUBMITTED TO THE VOTERS OF THE COUNTY FOR APPROVAL OR REJECTION IF A PETITION FOR SUBMISSION TO REFERENDUM THAT BEARS THE SIGNATURES OF AT LEAST 10% OF THE REGISTERED VOTERS OF THE COUNTY IS FILED WITH THE COUNTY BOARD OF ELECTIONS WITHIN 75 DAYS AFTER THE LOCAL LAW IS ENACTED.

(B) SELF–FUNDED SYSTEM, PROJECT, OR UNDERTAKING.

(1) A COUNTY MAY PROVIDE FOR THE ISSUANCE OF BONDS OR OTHER EVIDENCES OF INDEBTEDNESS PAYABLE AS TO PRINCIPAL AND INTEREST AND PREMIUM, IF ANY, SOLELY FROM THE MONEY RECEIVED FROM OR IN CONNECTION WITH ANY SYSTEM, PROJECT, OR UNDERTAKING, ALL OR PART OF WHICH IS FINANCED FROM THE PROCEEDS OF THE BONDS OR OTHER EVIDENCES OF INDEBTEDNESS.

(2) BONDS OR OTHER EVIDENCES OF INDEBTEDNESS ISSUED UNDER THIS SUBSECTION:

(I) ARE NOT AN INDEBTEDNESS OF THE COUNTY OR A PLEDGE OF ITS FAITH AND CREDIT OR TAXING POWER;

(II) MAY BE SOLD AT A PRIVATE, NEGOTIATED SALE; AND

(III) ARE NOT SUBJECT TO THE LIMITATIONS OF:

1. SUBSECTION (A) OF THIS SECTION;

2. §§ 19–205 AND 19–206 OF THIS ARTICLE; OR

3. THE COUNTY CHARTER.

(3) THIS SUBSECTION DOES NOT LIMIT THE POWER OF A COUNTY TO ISSUE REVENUE BONDS IN ACCORDANCE WITH ANY OTHER APPLICABLE LAW.

(C) TAX EXEMPTION.

THE BONDS, NOTES, AND ANY OTHER EVIDENCES OF INDEBTEDNESS ISSUED UNDER THIS SECTION, THEIR TRANSFER, THE INTEREST PAYABLE ON THEM, AND ANY INCOME DERIVED FROM THEM, INCLUDING ANY PROFIT REALIZED IN THEIR SALE OR EXCHANGE, SHALL BE EXEMPT FROM TAXATION OF ANY KIND BY THE STATE, ANY POLITICAL SUBDIVISION, OR ANY OTHER PUBLIC ENTITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(P).

In subsection (a) of this section, the former references to "registered" voters are deleted as surplusage, except when used to modify voters in connection with the percentage of signatures needed for a petition.

In subsection (a)(1) of this section, the phrase "in accordance with local law" is substituted for the former phrase "in such sums, for such purposes, on such terms and payable at such times, and from such taxes or other sources as may have been or may be provided by or pursuant to local law," for brevity.

In the introductory language of subsection (a)(2)(ii) of this section, the reference to evidences of indebtedness "not be[ing] considered" is substituted for the former reference to evidences of indebtedness "not be[ing] subject to or included" for brevity.

In subsection (a)(2)(ii)2 of this section, the former reference to special taxing districts "heretofore or hereafter established by law" is deleted as surplusage.

Also in subsection (a)(2)(ii)2 of this section, the former reference to special taxing "areas" is deleted as included in the reference to special taxing "districts".

In subsection (a)(3)(ii) of this section, the phrase "county board of elections" is substituted for the former phrase "board of supervisors of elections of the county" for consistency with the terminology used throughout the Code.

In subsections (b) and (c) of this section, the phrase "other evidences of indebtedness" is substituted for the former phrases "obligations" and "evidences of obligation", respectively, for consistency with the terminology used elsewhere in this section.

In subsection (c) of this section, the former reference to being exempt "at all times" is deleted as surplusage.

Also in subsection (c) of this section, the former term "municipal corporations" is deleted as unnecessary in light of the term "political subdivision".

10–204. ORDINANCES TO FACILITATE CHARTER AMENDMENTS.

A COUNTY MAY PASS ANY ORDINANCE THAT FACILITATES THE AMENDMENT OF THE COUNTY CHARTER BY REFERENDUM OF THE VOTERS OF THE COUNTY IN ACCORDANCE WITH ARTICLE XI–A, § 5 OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 25A, § 5(S).

The reference to Article XI–A ", § 5" of the Maryland Constitution is added for clarity.

The phrase "by referendum of the voters" is substituted for the former phrase "by vote of the electors" to conform with the terminology used throughout this title.

10–205. COUNTY COUNCIL — VACANCY.

A COUNTY MAY PROVIDE FOR THE CONDUCT OF A SPECIAL ELECTION TO FILL A VACANCY IN THE COUNTY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(Q)(2).

The former reference to a vacancy "that occurs upon the death or resignation of a member of the county council or on forfeiture of office by a member of the county council" is deleted as unnecessary because the deleted language lists all of the ways a vacancy in office could occur and, thus, there is no apparent intent to limit the option for a special election based on the type of vacancy.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that former Art. 25A, § 5(Q)(2), is revised to apply only to charter counties. In *Prince George's County v. Bd. of Sup'rs of Elections of Prince George's County*, 337 Md 496, 654 A.2d 1303 (1995), the Court held that a charter county was not authorized to fill an interim vacancy on the county council by special election. In response, the General Assembly passed a constitutional amendment amending Art. XI–A, Section 3 and Art. XVII, Section 2 of the Maryland Constitution addressing the ability to fill vacancies in charter counties and amended Art. 25A, § 5(Q) to address the filling of vacancies in charter counties. Given this legislative history, the committee concluded that these provisions were intended to apply only to charter counties. As to the filling of vacancies in code counties, *see* § 9–402 of this article.

10–206. ADDITIONAL LEGISLATIVE POWERS.

(A) IN GENERAL.

A COUNTY COUNCIL MAY PASS ANY ORDINANCE, RESOLUTION, OR BYLAW NOT INCONSISTENT WITH STATE LAW THAT:

(1) MAY AID IN EXECUTING AND ENFORCING ANY POWER IN THIS TITLE; OR

(2) MAY AID IN MAINTAINING THE PEACE, GOOD GOVERNMENT, HEALTH, AND WELFARE OF THE COUNTY.

(B) LIMITS ON EXERCISE OF POWERS.

A COUNTY MAY EXERCISE THE POWERS PROVIDED UNDER THIS TITLE ONLY TO THE EXTENT THAT THE POWERS ARE NOT PREEMPTED BY OR IN CONFLICT WITH PUBLIC GENERAL LAW.

(C) LIMIT ON POWERS TO REGULATE ALCOHOLIC BEVERAGES.

A COUNTY MAY NOT PASS ANY LAW UNDER THIS TITLE REGARDING THE LICENSING, REGULATING, PROHIBITING, OR SUBMITTING TO REFERENDUM THE MANUFACTURE OR SALE OF ALCOHOLIC BEVERAGES.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 25A, § 5(S).

In the introductory language of subsection (a) of this section, the former reference to "the provisions of this article" is deleted as included in the reference to "State law".

In subsection (a)(1) of this section, the reference to enactments "that … may aid" in executing and enforcing is substituted for the former reference to enactments "as may be proper" in executing and enforcing for clarity. Similarly, in subsection (a)(2) of this section, the reference to enactments "that … may aid" in maintaining is substituted for the former reference to enactments "as may be deemed expedient" in maintaining.

In subsection (b) of this section, the reference to powers that "are not preempted by or in conflict with" public general law is substituted for the former reference to powers that "are not provided" by public general law for clarity.

In subsection (c) of this section, the term "alcoholic beverages" is substituted for the former phrase "malt or spirituous liquors" for consistency with terminology used throughout the Code.

Also in subsection (c) of this section, the reference to "pass[ing] any law under this title" is substituted for the former reference to the "power to legislate" for clarity.

Defined term: "State" § 1–101

SUBTITLE 3. EXPRESS POWERS OF CHARTER COUNTIES AND CODE COUNTIES.

10–301. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY TO CHARTER COUNTIES AND CODE COUNTIES.

REVISOR'S NOTE: This section is new language added to clarify the scope of this subtitle.

Defined terms: "Charter county" § 1–101
"Code county" § 1–101

10–302. COUNTY LEGISLATIVE BODY — COMPENSATION.

(A) COMPENSATION COMMISSION.

BY ORDINANCE, A COUNTY MAY ESTABLISH A COMMISSION TO RECOMMEND COMPENSATION AND ALLOWANCES FOR MEMBERS OF THE COUNTY LEGISLATIVE BODY.

(B) RECOMMENDATIONS.

(1) WITHIN 15 DAYS AFTER THE BEGINNING OF THE FOURTH YEAR OF THE TERM, A COMMISSION ESTABLISHED UNDER THIS SECTION, BY RESOLUTION, SHALL SUBMIT TO THE COUNTY LEGISLATIVE BODY ITS RECOMMENDATION FOR THE COMPENSATION AND ALLOWANCES FOR MEMBERS OF THE COUNTY LEGISLATIVE BODY.

(2) SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE COMMISSION MAY RECOMMEND AN INCREASE OR DECREASE IN THE COMPENSATION AND ALLOWANCES FOR MEMBERS OF THE COUNTY LEGISLATIVE BODY.

(C) LEGISLATIVE ACTION.

ON RECEIVING THE RESOLUTION, THE COUNTY LEGISLATIVE BODY MAY REDUCE OR REJECT THE COMMISSION'S RECOMMENDATION, BUT MAY NOT INCREASE ANY ITEM.

(D) CHANGES IN SALARY.

ANY CHANGE IN THE COMPENSATION AND ALLOWANCES OF MEMBERS OF THE COUNTY LEGISLATIVE BODY SHALL BE ENACTED BY ORDINANCE BEFORE THE ELECTION FOR THE MEMBERS OF THE NEXT SUCCEEDING COUNTY

LEGISLATIVE BODY AND TAKE EFFECT ONLY FOR THE MEMBERS OF THE NEXT SUCCEEDING COUNTY LEGISLATIVE BODY.

(E) MINIMUM FOR COMPENSATION AND ALLOWANCES.

THE COMPENSATION OR ALLOWANCES FOR MEMBERS OF THE COUNTY LEGISLATIVE BODY OF A CHARTER COUNTY MAY NOT BE LESS THAN PROVIDED IN THE COUNTY CHARTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(AA).

In subsection (a) of this section and throughout this subtitle, the references to "county legislative body" are substituted for the former references to "county council" for accuracy because this subtitle applies to both charter counties, which are governed by a county council, and code counties, which are governed by county commissioners.

In subsection (a) of this section, the reference to a commission "to recommend" compensation and allowances is substituted for the former reference to a commission "empowered to set" compensation and allowances for consistency within this section.

In subsection (b)(1) of this section, the former reference to the commission "set[ting]" the compensation and allowances is deleted as inconsistent with the rest of this section, which requires the commission to submit "its recommendation" for the compensation and allowances.

Also in subsection (b)(1) of this section, the former reference to the term "of each council" is deleted as surplusage.

In subsection (b)(2) of this section, the introductory clause "[s]ubject to subsection (e) of this section" is added for clarity.

Also in subsection (b)(2) of this section, the reference to the "allowances" for members is added for consistency within this section.

In subsection (d) of this section, the reference to "[a]ny change in the compensation … be[ing] enacted by ordinance" is substituted for the former reference to "[t]he ordinance making any change in the salary … be[ing] ordained" for clarity.

Also in subsection (d) of this section, the reference to the "compensation and allowances of" members is substituted for the former reference to the "salary paid to" members for consistency within this section.

10–303. COUNTY OFFICERS, OFFICIALS, AND EMPLOYEES.

(A) COUNTY EXECUTIVE AUTHORITY.

IF A COUNTY EXECUTIVE IS AUTHORIZED, THE COUNTY MAY SET THE QUALIFICATIONS, TERM OF OFFICE, AND COMPENSATION FOR THE COUNTY EXECUTIVE.

(B) COUNTY OFFICERS — APPOINTMENT AND REMOVAL.

A COUNTY MAY PROVIDE FOR THE APPOINTMENT AND REMOVAL OF ALL COUNTY OFFICERS EXCEPT THOSE WHOSE APPOINTMENT OR ELECTION IS PROVIDED FOR BY THE MARYLAND CONSTITUTION OR PUBLIC GENERAL LAW.

(C) COUNTY OFFICERS — CONFLICTS OF INTEREST.

A COUNTY LEGISLATIVE BODY MAY ENACT LOCAL LAWS TO:

(1) PREVENT CONFLICTS BETWEEN THE PRIVATE INTERESTS AND PUBLIC DUTIES OF COUNTY OFFICERS AND MEMBERS OF THE COUNTY LEGISLATIVE BODY;

(2) GOVERN THE CONDUCT AND ACTIONS OF ALL COUNTY OFFICERS AND MEMBERS OF THE COUNTY LEGISLATIVE BODY IN THE PERFORMANCE OF THEIR PUBLIC DUTIES; AND

(3) PROVIDE FOR PENALTIES, INCLUDING REMOVAL FROM OFFICE, FOR A VIOLATION OF THE LOCAL LAWS OR ANY REGULATIONS ADOPTED UNDER THE LOCAL LAWS.

(D) COUNTY OFFICIALS AND EMPLOYEES — MERIT SYSTEM.

A COUNTY MAY PROVIDE FOR A MERIT SYSTEM GOVERNING THE APPOINTMENT OF COUNTY OFFICIALS AND EMPLOYEES NOT ELECTED OR APPOINTED UNDER THE MARYLAND CONSTITUTION OR PUBLIC GENERAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(Q)(1).

In subsection (c)(3) of this section, the reference to "the local laws or any regulations adopted under the local laws" is substituted for the former reference to "such laws or regulations adopted thereunder" for clarity.

In subsection (d) of this section, the reference to a merit system "governing" appointments is substituted for the former reference to a merit system "in connection with" appointments for clarity.

10–304. COUNTY INSTITUTIONS.

(A) HOSPITALS AND HOMELESS SHELTERS.

A COUNTY MAY ESTABLISH, MAINTAIN, AND CONTROL HOSPITALS, HOMELESS SHELTERS, AND OTHER SIMILAR INSTITUTIONS IN THE COUNTY.

(B) COURTHOUSES.

A COUNTY MAY ESTABLISH AND MAINTAIN COURTHOUSES.

(C) LOCAL CORRECTIONAL OR DETENTION FACILITIES AND JUVENILE FACILITIES.

A COUNTY MAY:

(1) ESTABLISH AND MAINTAIN LOCAL CORRECTIONAL OR DETENTION FACILITIES AND JUVENILE FACILITIES;

(2) REGULATE ALL INDIVIDUALS CONFINED IN THE FACILITIES; AND

(3) MAKE APPROPRIATE PROVISIONS FOR FEMALES AND JUVENILES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(C).

In subsection (a) of this section, the reference to "homeless shelters" is substituted for the former reference to "almshouses" to conform to modern terminology.

Also in subsection (a) of this section, the former reference to "erect[ing]" an institution is deleted as included in the reference to "establish[ing]" an institution.

Also in subsection (a) of this section, the former reference to "mak[ing] all regulations for the government and conduct of the same" is deleted as included in the reference to "maintain[ing]" and "control[ling]" an institution.

Also in subsection (a) of this section, the former references to "pesthouses" is deleted as included in the reference to "hospitals" because a pesthouse is defined as a shelter or hospital for persons infected with a pestilential or contagious disease and the reference is obsolete as these persons currently would be treated in a hospital.

In subsection (b) of this section, the reference to "erect[ing]" courthouses is deleted as included in the reference to "establish[ing]" courthouses.

In subsection (c)(1) of this section, the reference to "local correctional or detention facilities and juvenile facilities" is substituted for the former reference to "county jails, county houses of correction or detention and reformatories" to conform to modern terminology.

In subsection (c)(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 be confined in a facility.

Also in subsection (c)(2) of this section, the reference to the "facilities" is substituted for the former reference to "county jails, and county houses of correction or detention and reformatories" for brevity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that in subsection (c) of this section, the reference to "juvenile facilities" is substituted for the former reference to "reformatories". Reformatories for youth were created in the mid 1800s, but minors were tried, convicted, and punished like adults. In 1916, legislation was enacted authorizing county circuit courts to designate a judge to handle cases with delinquent children and prohibited the confinement of a child under 14 years of age in a jail or police station with other prisoners. In 1918, the Express Powers Act was enacted referencing reformatories. Since that time there have been a number of reforms to the juvenile justice system and there is no currently recognized term for a juvenile facility established by a county. The General Assembly may wish to amend this section to reflect the current juvenile justice system.

10–305. COUNTY BOARD OF APPEALS.

(A) ESTABLISHED.

A COUNTY MAY ENACT LOCAL LAWS TO PROVIDE FOR:

(1) THE ESTABLISHMENT OF A COUNTY BOARD OF APPEALS, WHOSE MEMBERS SHALL BE APPOINTED BY THE COUNTY LEGISLATIVE BODY;

(2) THE NUMBER, QUALIFICATIONS, TERMS, AND COMPENSATION OF THE MEMBERS OF THE COUNTY BOARD OF APPEALS;

(3) THE ADOPTION BY THE COUNTY BOARD OF APPEALS OF RULES OF PRACTICE THAT GOVERN ITS PROCEEDINGS; AND

(4) A DECISION BY THE COUNTY BOARD OF APPEALS ON PETITION OF ANY INTERESTED PERSON, AFTER NOTICE AND OPPORTUNITY FOR HEARING, ON THE BASIS OF A RECORD BEFORE THE BOARD.

(B) JURISDICTION.

THE COUNTY BOARD OF APPEALS MAY HAVE ORIGINAL JURISDICTION OR JURISDICTION TO REVIEW THE ACTION OF AN ADMINISTRATIVE OFFICER OR UNIT OF COUNTY GOVERNMENT OVER MATTERS ARISING UNDER ANY LAW, ORDINANCE, OR REGULATION OF THE COUNTY COUNCIL THAT CONCERNS:

(1) AN APPLICATION FOR A ZONING VARIATION OR EXCEPTION OR AMENDMENT OF A ZONING MAP;

(2) THE ISSUANCE, RENEWAL, DENIAL, REVOCATION, SUSPENSION, ANNULMENT, OR MODIFICATION OF ANY LICENSE, PERMIT, APPROVAL, EXEMPTION, WAIVER, CERTIFICATE, REGISTRATION, OR OTHER FORM OF PERMISSION OR OF ANY ADJUDICATORY ORDER; OR

(3) THE ASSESSMENT OF ANY SPECIAL BENEFIT TAX.

(C) DECISION.

WHEN ISSUING A DECISION, THE COUNTY BOARD OF APPEALS SHALL FILE AN OPINION THAT SHALL INCLUDE A STATEMENT OF THE FACTS FOUND AND THE GROUNDS FOR THE DECISION.

(D) JUDICIAL REVIEW.

(1) ANY PERSON AGGRIEVED BY THE DECISION AND A PARTY TO THE PROCEEDING BEFORE THE COUNTY BOARD OF APPEALS MAY SEEK REVIEW BY THE CIRCUIT COURT FOR THE COUNTY.

(2) THE CIRCUIT COURT MAY:

(I) AFFIRM THE DECISION; OR

(II) IF THE DECISION IS NOT IN ACCORDANCE WITH LAW:

1. MODIFY THE DECISION WITH OR WITHOUT REMANDING THE CASE FOR REHEARING; OR

2. REVERSE THE DECISION WITH OR WITHOUT REMANDING THE CASE FOR REHEARING.

(3) ANY PARTY TO THE PROCEEDING IN THE CIRCUIT COURT AGGRIEVED BY THE DECISION OF THE CIRCUIT COURT MAY APPEAL TO THE COURT OF SPECIAL APPEALS IN THE SAME MANNER PROVIDED FOR CIVIL CASES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(U).

In the introductory language of subsection (b) of this section, the former reference to any law, ordinance, or regulation "subject to amendment or repeal by, the county council, as shall be specified from time to time by such local laws enacted under this subsection" is deleted as unnecessary in light of Art. 1, § 21, which states that when a provision of law refers to any portion of the Code or to any other law, the reference applies to any subsequent amendment to that portion of the Code or other law unless expressly provided otherwise.

In subsection (b)(1) of this section, the former reference to a zoning "ordinance" map is deleted for accuracy and consistency with terminology used in the Land Use Article.

In subsection (d) of this section, the former references to the decision "of the board" are deleted as surplusage.

Also in subsection (d) of this section, the former reference to an appeal "from the decision" is deleted as surplusage.

Also in subsection (d) of this section, the former reference to remanding the case "as justice may require" is deleted as implicit in the authority to remand.

10–306. ELECTION DISTRICTS AND PRECINCTS.

A COUNTY MAY CREATE AND REVISE ELECTION DISTRICTS AND PRECINCTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(H).

The reference to "revis[ing]" election districts is substituted for the former reference to "rearrang[ing]" districts for accuracy.

The Local Government Article Review Committee notes for consideration by the General Assembly, that the meaning of former Art. 25A, § 5(H) is unclear. The subsection was enacted when the Express Powers Act was first enacted in 1918. In 56 Op. Att'y. Gen. 175 (1971), the Attorney General said that the power to determine the boundaries of election precincts "rests with the Board of Supervisors of Elections of Howard County rather than with the County Council of Howard County" in light of Art. 33, § 2–12(a) (revised at § 2–202(b)(6) of the Election Law Article) which gives county boards of elections the authority to subdivide or change the boundaries of precincts. In *Harford Co. v. Board of Supervisors of Elections of Harford Co.*, 272 Md. 33 (1974), the Court of Appeals held that the voters of Harford County could create councilmanic districts in their charter. In a footnote, the court said that "election districts and precincts might be rearranged without alteration of Councilmanic districts". It is not clear whether the county boards of elections have the authority to change only the boundaries of the precincts and charter and code counties retain the authority to change the boundaries of election districts. The General Assembly may wish to clarify the intent of this section.

10–307. RECORDING AND INDEXING OF LEGAL AND LEGISLATIVE RECORDS.

UNLESS OTHERWISE GOVERNED BY OTHER PUBLIC GENERAL LAW, A COUNTY MAY PROVIDE FOR THE RECORDING AND INDEXING OF RECORDS OF:

(1) THE CLERK OF THE COURT;

(2) THE REGISTER OF WILLS; AND

(3) THE COUNTY COMMISSIONERS OR THE COUNTY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(I).

In the introductory language of this section, the phrase "[u]nless otherwise governed by other public general law" is substituted for the former phrase "to the extent that such matters are not provided for by general law" for brevity.

Also in the introductory language of this section, the former reference to "keeping indexed" all records is deleted as included in the references to "indexing" the records.

Defined term: "County" § 1–101

10–308. ADVERTISING AND PRINTING OF LEGISLATIVE AND FINANCIAL RECORDS.

A COUNTY MAY PROVIDE FOR ADVERTISING, PRINTING, AND PUBLISHING OF COUNTY DOCUMENTS, INCLUDING:

(1) ORDINANCES, BYLAWS, AND RESOLUTIONS; AND

(2) ANNUAL STATEMENTS OF EXPENSES OF THE COUNTY GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(D).

In the introductory language of this section, the reference to county "documents" is added for clarity.

In item (1) of this section, the former reference to ordinances, bylaws, and resolutions "adopted by the county" is deleted as surplusage.

10–309. AUDITS; CLAIMS AGAINST COUNTY.

(A) AUDITS.

A COUNTY MAY PROVIDE FOR:

(1) THE AUDITING OF COUNTY ACCOUNTS; AND

(2) ASSISTING THE LEGISLATIVE AUDITOR OR OTHER STATE OFFICER AUTHORIZED TO AUDIT THE COUNTY ACCOUNTS.

(B) CLAIMS AGAINST COUNTY.

A COUNTY MAY PROVIDE FOR PROOF OF CLAIMS AGAINST THE COUNTY BEFORE THEIR PAYMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(E).

In the introductory language of subsection (a) of this section, the reference to a county "provid[ing] for" the auditing and assisting is added for clarity.

In subsection (a)(1) of this section, the reference to auditing "of county accounts" is substituted for the former reference to audit[ing] "the accounts of all county officers" for clarity.

In subsection (a)(2) of this section, the reference to a State officer "authorized to audit the county accounts" is substituted for the former reference to a State officer "clothed with authority in the performance of this duty" for clarity.

Defined term: "State" § 1–101

10–310. PROCUREMENT.

(A) COMPETITIVE BIDDING.

FOR ANY COUNTY WORK, A COUNTY MAY PROVIDE FOR COMPETITIVE BIDDING AND THE MAKING AND AWARDING OF CONTRACTS AND MAY REQUIRE BONDS.

(B) PURCHASES OF MATERIALS, SUPPLIES, AND EQUIPMENT.

A COUNTY MAY PROVIDE FOR THE PURCHASE OF MATERIALS, SUPPLIES, AND EQUIPMENT THROUGH THE DEPARTMENT OF GENERAL SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(F).

In subsection (a) of this section, the former reference to requiring bonds "whenever proper" is deleted as surplusage.

In subsection (b) of this section, the former reference to the "Purchasing Bureau" is deleted as obsolete.

Also in subsection (b) of this section, the former reference to the purchase through the Department of General Services "whenever desirable" is deleted as surplusage.

10–311. PROTECTION OF COUNTY CREDIT.

A COUNTY MAY PREVENT THE CREDIT OF THE COUNTY IN ANY MANNER FROM BEING GIVEN OR LOANED TO OR IN AID OF ANY PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(R).

The reference to any "person" is substituted for the former reference to any "individual, association or corporation" because the word "person" includes individuals and those entities.

Defined term: "Person" § 1–101

10–312. COUNTY PROPERTY; HOUSING PROJECTS; FRANCHISE; REQUIRED NOTICE.

(A) COUNTY PROPERTY — PROTECTION.

A COUNTY MAY PROVIDE FOR THE PROTECTION OF COUNTY PROPERTY.

(B) COUNTY PROPERTY — ACQUISITION AND DISPOSAL.

A COUNTY MAY PROVIDE FOR:

(1) THE ACQUISITION BY PURCHASE, LEASE, CONDEMNATION, OR OTHERWISE OF PROPERTY REQUIRED FOR PUBLIC PURPOSES IN THE COUNTY; AND

(2) THE DISPOSAL OF ANY REAL OR LEASEHOLD COUNTY PROPERTY, IF THE COUNTY PROPERTY IS NO LONGER NEEDED FOR PUBLIC USE.

(C) COUNTY PROPERTY — LEASING.

A COUNTY MAY LEASE AS LESSOR ANY COUNTY PROPERTY TO FURTHER THE PUBLIC PURPOSES OF THE COUNTY, ON ANY TERMS AND COMPENSATION THAT THE COUNTY CONSIDERS PROPER.

(D) HOUSING PROJECTS.

A COUNTY MAY PROVIDE FOR THE FINANCING OF ANY HOUSING OR HOUSING PROJECT WHOLLY OR PARTLY, INCLUDING THE PLACEMENT OF A DEED OF TRUST, MORTGAGE, OR OTHER DEBT INSTRUMENT ON THE PROPERTY TO ENSURE REPAYMENT OF FUNDS USED TO PURCHASE, CONSTRUCT, REHABILITATE, OR OTHERWISE DEVELOP THE HOUSING PROJECT.

(E) FRANCHISES.

(1) A COUNTY MAY GRANT ANY FRANCHISE OR RIGHT TO USE A FRANCHISE, INCLUDING ANY RIGHT OR FRANCHISE IN RELATION TO ANY HIGHWAY, STREET, ROAD, LANE, ALLEY, OR BRIDGE.

(2) A COUNTY MAY GRANT A FRANCHISE FOR A CABLE TELEVISION SYSTEM AS PROVIDED IN § 1–707 OF THIS ARTICLE.

(3) FOR ANY FRANCHISE GRANTED UNDER THIS SUBSECTION, A COUNTY MAY:

(I) IMPOSE FRANCHISE FEES; AND

(II) ESTABLISH RATES, RULES, AND REGULATIONS.

(F) REQUIRED NOTICE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, BEFORE THE COUNTY MAKES ANY DISPOSITION, GRANT, OR LEASE OF COUNTY PROPERTY, THE COUNTY SHALL PUBLISH NOTICE OF THE DISPOSITION, GRANT, OR LEASE ONCE A WEEK FOR 3 SUCCESSIVE WEEKS IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY AND SHALL INCLUDE THE TERMS AND THE COMPENSATION TO BE RECEIVED AND GIVE OPPORTUNITY FOR OBJECTIONS.

(2) A COUNTY MAY GRANT AN EASEMENT FOR A PUBLIC UTILITY WITHOUT GIVING NOTICE UNDER THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(B).

In subsection (c) of this section, the former reference to authority to lease "to the State or any political subdivision or other agency thereof, or to any county agency, or to any person" is deleted as unnecessary because it includes all entities to which property could be leased.

In subsection (d) of this section, the reference to a "debt" instrument is added for clarity.

In subsection (e)(2) of this section, the reference to a franchise for a cable television system "as provided in § 1–707 of this article" is substituted for the former reference to a franchise for a cable television system "that utilizes any public right–of–way, highway, street, road, lane, alley, or bridge" to provide a cross–reference to the grant of authority to all counties and municipalities and to avoid redundancy.

Also in subsection (e)(2) of this section, the former reference to "exclusive or nonexclusive" franchises is deleted as inconsistent with federal law. The Cable Television Consumer Protection and Competition Act of 1992 prohibits the granting of an "exclusive" franchise. *See* 47 U.S.C. §

541(a)(1). Similarly, in subsection (e)(2) of this section, the former reference to "one or more" franchises is deleted to avoid the implication that an exclusive franchise might be allowed.

Also in subsection (e)(2) of this section, the former reference to a "community antenna system" is deleted as included in the general reference to a "cable television system".

In subsection (f)(1) of this section, the reference to "publish[ing]" notice is substituted for the former reference to "be[ing] advertised" for consistency with the terminology used throughout this article.

Also in subsection (f)(1) of this section, the former reference to a newspaper of general circulation "published" in the county is deleted for consistency with the terminology used throughout this article.

10–313. TAXES.

(A) CLASSES AND SUBCLASSES OF PROPERTY; IMPOSITION OF TAX; SINKING FUND.

(1) A COUNTY MAY DIRECT THE CLASS OR SUBCLASS OF PROPERTY THAT IS SUBJECT TO THE COUNTY PROPERTY TAX.

(2) A COUNTY MAY IMPOSE A TAX ON THE VALUE OF PROPERTY OF ANY SUM THAT MAY BE NECESSARY:

(I) TO PAY THE PRINCIPAL AND INTEREST OF ANY LOAN OBTAINED BY THE COUNTY ACCORDING TO LAW;

(II) TO PROVIDE FOR THE SINKING FUND AUTHORIZED UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND

(III) FOR THE SUPPORT AND MAINTENANCE OF THE COUNTY GOVERNMENT.

(3) A COUNTY MAY CREATE A SINKING FUND TO MEET THE LIABILITIES INCURRED BY THE COUNTY.

(B) COLLECTION OF TAXES.

A COUNTY MAY PROVIDE FOR:

(1) THE PROMPT COLLECTION OF ALL TAXES DUE THE COUNTY; AND

(2) THE SALE OF PROPERTY FOR THE PAYMENT OF UNPAID TAXES.

(C) ERRORS IN ASSESSMENTS.

A COUNTY MAY:

(1) CORRECT ERRORS IN THE ASSESSMENT OF PROPERTY;

(2) PROVIDE FOR THE REDUCTION OR ABATEMENT OF ASSESSMENTS IMPROPERLY MADE; AND

(3) PROVIDE FOR THE REIMBURSEMENT OF OVERPAYMENTS MADE BECAUSE OF AN ASSESSMENT ERROR.

(D) TAX FOR COUNTY SERVICES.

(1) A COUNTY MAY IMPOSE A TAX FOR THE ORGANIZATION, OPERATION, AND MAINTENANCE OF:

(I) LIBRARIES;

(II) FIRE AND AMBULANCE SERVICES; AND

(III) OTHER MUNICIPAL SERVICES.

(2) A COUNTY MAY AUTHORIZE THE PURCHASE, SALE, CONSTRUCTION, MAINTENANCE, AND OPERATION OF ALL PROPERTY NECESSARY OR INCIDENTAL TO THE SERVICES LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

(E) TAX FOR COUNTY EMPLOYEE BENEFITS.

A COUNTY MAY IMPOSE A TAX TO PAY FOR ADDITIONAL RETIREMENT OR DISABILITY BENEFITS TO ANY FORMER COUNTY EMPLOYEE WHO IS ENTITLED TO RECEIVE ADDITIONAL BENEFITS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, second, third, and fifth sentences of former Art. 25A, § 5(O) and, as it related to imposing taxes for services, the fourth sentence.

In subsection (a)(1) of this section, the reference to "property" is substituted for the former reference to "improvements on land and personal property" for brevity.

Also in subsection (a)(1) of this section, the reference to property "that is subject to the county property tax" is substituted for the former reference to property "which shall be made subject to the county tax levy" for consistency with the terminology used throughout this article.

In the introductory language of subsection (a)(2) of this section, the reference to the "impos[ing] a tax on the value of property" is substituted for the former reference to the "provid[ing] for the levy thereupon and upon the value of land" for clarity and consistency with the terminology used throughout this article.

Also in the introductory language of subsection (a)(2) of this section, the former reference to "Article 15 of the Declaration of Rights of the Constitution of Maryland as amended," is deleted as unnecessary because all statutes are required to comply with the Constitution.

In subsection (a)(2)(i) of this section, the reference to any loan "obtained by the county" is substituted for the former reference to any loan "which may heretofore have been obtained, or which may hereafter be obtained by such county" for brevity.

Also in subsection (a)(2)(i) of this section, the former reference to the "discharge" of principal and interest is deleted as included in the reference to "pay[ing]" the principal and interest.

In subsection (b)(2) of this section, the reference to "property" is substituted for the former reference to "real estate, as well as leasehold and personal property" for brevity.

Also in subsection (b)(2) of this section, the reference to payment of "unpaid taxes" is substituted for the former reference to payment of "the same" for clarity.

In subsection (c)(3) of this section, the reference to the reimbursement of "overpayments made because of an assessment" error is substituted for the former reference to the reimbursement of "moneys paid in consequence of such" errors for clarity.

In the introductory language of subsections (d)(1) and (e) of this section, the references to "impos[ing] a tax" are substituted for the former references to "levy[ing] and collect[ing] taxes" for consistency with the terminology used throughout this article.

In subsection (d)(2) of this section, the reference to "property" is substituted for the former reference to "real and personal property" for brevity.

Also in subsection (d)(2) of this section, the reference to "services listed in paragraph (1) of this subsection" is substituted for the former reference to "such services" for clarity.

The Local Government Article Review Committee notes, for consideration by the General Assembly, that the provisions of former Art. 25A, § 5(O) potentially conflict with provisions of the Tax – Property Article and the role of the State Department of Assessments and Taxation.

10–314. SPECIAL TAXING DISTRICTS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A COUNTY MAY ESTABLISH, MODIFY, OR ABOLISH SPECIAL TAXING DISTRICTS FOR ANY PURPOSE LISTED IN THIS TITLE.

(B) EXISTING SPECIAL TAXING DISTRICTS.

THIS SECTION DOES NOT AUTHORIZE THE MODIFICATION OR ABOLITION OF AN EXISTING SPECIAL TAXING DISTRICT THAT:

(1) PERFORMS MUNICIPAL SERVICES, OTHER THAN FURNISHING FIRE PROTECTION OR LIBRARY SERVICE; AND

(2) IS GOVERNED OR ADMINISTERED BY A COMMITTEE OR A COMMISSION ELECTED OR APPOINTED INDEPENDENTLY OF THE COUNTY LEGISLATIVE BODY.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth sentence of former Art. 25A, § 5(O), as it related to special taxing districts.

Throughout this section, the references to special taxing "districts" are substituted for the former references to special taxing "areas" for consistency with the terminology used throughout this article.

In subsection (a) of this section, the former reference to "amend[ing]" a special taxing district is deleted as included in the reference to "modify[ing]" special taxing districts.

In subsection (b) of this section, the former reference to a "citizen's" committee or commission is deleted as surplusage.

10–315. COMMERCIAL DISTRICT MANAGEMENT AUTHORITY.

(A) "AUTHORITY" DEFINED.

IN THIS SECTION, "AUTHORITY" MEANS A COMMERCIAL DISTRICT MANAGEMENT AUTHORITY.

(B) ESTABLISHMENT.

A COUNTY MAY ESTABLISH AN AUTHORITY FOR ANY COMMERCIAL DISTRICT IN THE COUNTY.

(C) COMPOSITION; PURPOSES.

FOR EACH AUTHORITY ESTABLISHED, A COUNTY:

(1) SHALL SPECIFY THE MEMBERSHIP, ORGANIZATION, JURISDICTION, AND GEOGRAPHICAL LIMITS OF THE AUTHORITY;

(2) SHALL SPECIFY THE PURPOSES OF THE AUTHORITY, INCLUDING:

(I) PROMOTION;

(II) MARKETING; OR

(III) THE PROVISION OF SECURITY, MAINTENANCE, OR AMENITIES IN THE DISTRICT;

(3) MAY SPECIFY WHICH PROVISIONS OF THE COUNTY CHARTER OR LOCAL LAW RELATING TO PERSONNEL, PROCUREMENT, OR SIMILAR OPERATIONAL MATTERS APPLY TO THE AUTHORITY, EXCEPT THAT MINORITY BUSINESS ENTERPRISE PROCUREMENT AND EQUAL EMPLOYMENT OPPORTUNITY LAWS MAY NOT BE WAIVED;

(4) MAY APPROVE THE ANNUAL BUDGET OF THE AUTHORITY IF THE COUNTY GOVERNING BODY IMPOSES AN AD VALOREM TAX TO SUPPORT THE AUTHORITY; AND

(5) MAY PROVIDE ANY FINANCING THAT IT CONSIDERS APPROPRIATE FOR THE AUTHORITY THROUGH FEES THAT MAY BE CHARGED TO,

OR TAXES THAT MAY BE IMPOSED AGAINST, BUSINESSES SUBJECT TO THE AUTHORITY'S JURISDICTION.

(D) PROHIBITED ACTIVITIES.

AN AUTHORITY MAY NOT:

(1) EXERCISE THE POWER OF EMINENT DOMAIN;

(2) PURCHASE, SELL, CONSTRUCT, OR LEASE AS A LESSOR OFFICE OR RETAIL SPACE; OR

(3) EXCEPT AS OTHERWISE AUTHORIZED BY LAW, ENGAGE IN COMPETITION WITH THE PRIVATE SECTOR.

(E) FEES AND TAXES.

ANY FEE OR TAX IMPOSED UNDER THIS SECTION SHALL BE USED ONLY FOR THE PURPOSES STATED IN THIS SECTION AND MAY NOT REVERT TO THE GENERAL FUND OF THE COUNTY.

(F) AUTHORITY AS A SPECIAL TAXING DISTRICT.

A COUNTY MAY ESTABLISH AN AUTHORITY IN ACCORDANCE WITH THIS SECTION AS A SPECIAL TAXING DISTRICT.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid the repetition of the complete reference to a commercial district management authority.

Subsections (b) through (f) of this section are new language derived without substantive change from former Art. 25A, § 5(FF).

In subsection (b) of this section, the former phrase "[i]n accordance with the provisions of this subsection" is deleted as surplusage.

In subsection (c)(3) of this section, the former reference to matters that "do not apply" to the authority is deleted as implicit in the reference to matters that "apply" to the authority.

In subsection (d)(2) of this section, the reference to "leas[ing] as a lessor" is substituted for the former reference to "as a landlord, leas[ing]" for clarity.

Defined term: "Governing body" § 1–101

10–316. COMMERCIAL OR INDUSTRIAL REDEVELOPMENT PROJECTS.

SECTION 18–301 OF THIS ARTICLE APPLIES TO THE USE OF FEDERAL OR STATE FINANCIAL ASSISTANCE FOR COMMERCIAL OR INDUSTRIAL REDEVELOPMENT PROJECTS.

REVISOR'S NOTE: This section is new language added to provide a convenient cross–reference to § 18–301 of this article.

Defined term: "State" § 1–101

10–317. ROAD, WASTE DISPOSAL, SOIL EROSION, AND BUILDING LAWS.

(A) IN GENERAL.

AFTER REASONABLE NOTICE AND A PUBLIC HEARING, A COUNTY MAY ENACT LOCAL LAWS TO PROTECT AND PROMOTE PUBLIC SAFETY, HEALTH, MORALS, COMFORT, AND WELFARE, RELATING TO:

(1) THE LOCATION, CONSTRUCTION, REPAIR, AND USE OF STREETS AND HIGHWAYS;

(2) THE DISPOSAL OF WASTES;

(3) THE CONTROL OF SOIL EROSION AND THE PRESERVATION OF THE NATURAL TOPOGRAPHY; OR

(4) THE ERECTION, CONSTRUCTION, REPAIR, AND USE OF BUILDINGS AND OTHER STRUCTURES.

(B) ENFORCEMENT.

A COUNTY MAY ENACT LOCAL LAWS TO PROVIDE FOR APPROPRIATE ADMINISTRATIVE AND JUDICIAL PROCEEDINGS, REMEDIES, AND SANCTIONS TO ADMINISTER AND ENFORCE LOCAL LAWS ENACTED UNDER SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(T).

In the introductory language of subsection (a) of this section, the former reference to "enabling the county council to adopt from time to time, ... and with or without modifications, ordinances and amendments thereof" is deleted as surplusage.

In subsection (a)(3) of this section, the former reference to natural topography "in newly developed and other areas" is deleted as surplusage.

Also in subsection (a)(3) of this section, the former reference to the "problems of" soil erosion is deleted as surplusage.

In subsection (b) of this section, the reference to "local laws enacted under subsection (a) of this section" is substituted for the former reference to "such ordinances and amendments" for consistency within the section.

10–318. FENCES.

A COUNTY MAY:

(1) REGULATE THE CONSTRUCTION AND MAINTENANCE OF FENCES;

(2) PROVIDE FOR A PROCEDURE TO ENFORCE THE RIGHTS OF PARTIES WITH REFERENCE TO A FENCE; AND

(3) PROVIDE FOR A LIEN FOR REPAIRS TO A FENCE MADE BY AN OWNER WHO IS NOT IN DEFAULT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(N).

In item (1) of this section, the reference to "maintenance of" fences is substituted for the former reference to "keeping secure" for clarity.

In items (2) and (3) of this section, the references to "a fence" are added for clarity.

10–319. HIGHWAYS, BRIDGES, AND STREETS.

(A) IN GENERAL.

A COUNTY MAY PROVIDE FOR:

(1) BUILDING, MAINTAINING, AND REPAIRING ANY STREET, ROAD, LANE, ALLEY, FOOTWAY, BRIDGE, CULVERT, HIGHWAY, OR PUBLIC PLACE THAT IS CONDEMNED, CEDED, OPENED, WIDENED, EXTENDED, OR STRAIGHTENED AS PUBLIC PROPERTY; AND

(2) THE ASSESSMENT OF THE COSTS OF ANY WORK DONE IN ACCORDANCE WITH ITEM (1) OF THIS SUBSECTION ON THE ASSESSABLE BASIS OF THE COUNTY.

(B) FOOTWAYS.

A COUNTY MAY PROVIDE:

(1) THAT THE OWNER OR POSSESSOR OF ANY LOT SHALL GRADE, REGRADE, PAVE, REPAVE, OR REPAIR THE FOOTWAYS IN FRONT OF THE LOT; AND

(2) FOR THE ENFORCEMENT OF ITEM (1) OF THIS SUBSECTION BY FINE OR PENALTY.

(C) OPENING STREETS.

A COUNTY MAY REGULATE THE OPENING OF STREET SURFACES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(K).

In subsection (a)(1) of this section, the reference to "building, maintaining, and repairing" is substituted for the former reference to "grading, shelling, gravelling, paving and curbing, or for the regrading, reshelling, regravelling, repaving, recurbing and repairing" for brevity.

Also in subsection (a)(1) of this section, the former reference to a street, road, lane, alley, footway, bridge, culvert, highway, or public place "within said county, or any part thereof, now or hereafter" is deleted as surplusage.

In subsection (a)(2) of this section, the reference to work "done in accordance with item (1) of this subsection" is substituted for the former reference to "any such work" for clarity.

In the introductory language of subsection (b)(1) of this section, the reference to "provid[ing]" is added for clarity.

In subsection (b)(2) of this section, the reference to providing "for the enforcement of item (1) of this subsection" by fine or penalty is substituted for the former reference to "compel[ling]" by fine or penalty for clarity.

10–320. PUBLIC DRAINAGE IMPROVEMENT PROJECTS.

(A) IN GENERAL.

A COUNTY MAY PROVIDE FOR THE DRAINING OF SWAMPS AND LOWLANDS.

(B) REDETERMINATION OF PRIOR PROJECTS.

(1) AT THE REQUEST OF THE BOARD OF MANAGERS OF A DRAINAGE ASSOCIATION, THE COUNTY LEGISLATIVE BODY SHALL APPOINT A BOARD OF VIEWERS TO DETERMINE IF THE ORIGINAL DETERMINATION AS TO WHICH LANDS HAVE BENEFITED FROM THE DRAINAGE IMPROVEMENT PROJECT HAS CHANGED.

(2) THE BOARD OF VIEWERS SHALL HAVE THE SAME QUALIFICATIONS, RIGHTS, POWERS, PRIVILEGES, AND DUTIES AS THE ORIGINAL BOARD OF VIEWERS.

(3) THE BOARD OF VIEWERS SHALL REPORT ITS FINDINGS TO THE COUNTY LEGISLATIVE BODY.

(4) THE REPORT SHALL BE CONSIDERED IN THE SAME MANNER AS THE ORIGINAL REPORT, INCLUDING THE SAME RIGHT TO A PUBLIC HEARING AND THE RIGHT TO JUDICIAL REVIEW.

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(G).

In subsection (a) of this section, the former phrase "as far as necessary" is deleted as surplusage.

In subsection (b)(1) of this section, the former phrase "[w]ith regard to a redetermination as to which lands continue to benefit from a prior drainage improvement project" is deleted as surplusage.

10–321. STORM DRAINAGE DISTRICTS.

A COUNTY MAY ENACT LOCAL LAWS THAT PROVIDE FOR:

(1) THE CREATION OF A STORM DRAINAGE DISTRICT;

(2) THE IMPOSITION OF TAXES IN THE STORM DRAINAGE DISTRICT;

(3) THE FINANCING, CONSTRUCTION, AND MAINTENANCE OF STORM DRAINAGE PROJECTS; AND

(4) THE REGULATION OF STORM DRAINAGE FACILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(W).

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

In subsection (a)(2) of this section, the reference to the "imposition" of taxes is substituted for the former reference to the "levying" of taxes for consistency with the terminology used throughout this article.

10–322. FEDERALLY ASSISTED WATERSHED PROJECTS.

A COUNTY HAS THE SAME POWERS ENUMERATED IN TITLE 12, SUBTITLE 7 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(Z).

10–323. PARKS AND RECREATION PROGRAMS.

(A) IN GENERAL.

A COUNTY MAY ENACT LOCAL LAWS PROVIDING FOR THE DEVELOPMENT AND ADMINISTRATION OF A RECREATIONAL PROGRAM INCLUDING:

(1) THE CONSTRUCTION, EQUIPMENT, AND USE OF PARKS, COMMUNITY CENTERS, AND RECREATIONAL BUILDINGS AND FACILITIES;

(2) THE ACQUISITION OF SITES FOR PARKS, COMMUNITY CENTERS, AND RECREATIONAL BUILDINGS AND FACILITIES;

(3) FINANCIAL SUPPORT FOR ARTISTIC, MUSICAL, AND CULTURAL PUBLIC AND PRIVATE NONPROFIT ORGANIZATIONS AND ACTIVITIES; AND

(4) THE FURNISHING OF RECREATIONAL AND OTHER MUNICIPAL SERVICES IN CONNECTION WITH PARKS, COMMUNITY CENTERS, AND RECREATIONAL BUILDINGS AND FACILITIES.

(B) OTHER AUTHORITY.

A COUNTY MAY EXERCISE THE AUTHORITY GRANTED UNDER TITLE 1, SUBTITLE 6 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(V).

In the introductory language of subsection (a) of this section, the former reference to a "comprehensive" program is deleted as surplusage.

In subsection (a)(2) and (4) of this section, the references to "parks, community centers, and recreational buildings and facilities" are substituted for the former references to "therefor" and "therewith", respectively, for clarity.

In subsection (b) of this section, the former reference to exercising the "power" is deleted as included in the reference to exercising the "authority".

10–324. ZONING AND PLANNING.

(A) IN GENERAL.

(1) A COUNTY MAY ENACT LOCAL LAWS RELATING TO ZONING AND PLANNING TO PROTECT AND PROMOTE PUBLIC SAFETY, HEALTH, MORALS, AND WELFARE, INCLUDING:

(I) EXCEPT AS PROVIDED IN § 10–305 OF THIS SUBTITLE, PROVIDING FOR THE RIGHT TO SEEK REVIEW IN THE CIRCUIT COURT OF ANY MATTER ARISING UNDER ANY LOCAL PLANNING OR ZONING LAW; AND

(II) ESTABLISHING A PROGRAM FOR THE TRANSFER OF DEVELOPMENT RIGHTS.

(2) A COUNTY MAY PROVIDE THAT A VIOLATION OF A ZONING LAW OR REGULATION ENACTED UNDER THIS SECTION IS A CIVIL ZONING VIOLATION, ENFORCEABLE AS PROVIDED UNDER TITLE 11, SUBTITLE 2 OF THE LAND USE ARTICLE.

(3) ANY DECISION OF THE CIRCUIT COURT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION MAY BE APPEALED TO THE COURT OF SPECIAL APPEALS.

(B) POLICY.

(1) IT IS THE POLICY OF THE STATE THAT THE ORDERLY DEVELOPMENT AND USE OF LAND AND STRUCTURES REQUIRES COMPREHENSIVE REGULATION THROUGH IMPLEMENTATION OF PLANNING AND ZONING CONTROLS.

(2) IT IS THE POLICY OF THE STATE THAT PLANNING AND ZONING CONTROLS SHALL BE IMPLEMENTED BY LOCAL GOVERNMENT.

(3) TO ACHIEVE THE PUBLIC PURPOSES OF THIS REGULATORY SCHEME, THE GENERAL ASSEMBLY RECOGNIZES THAT LOCAL GOVERNMENT ACTION WILL DISPLACE OR LIMIT ECONOMIC COMPETITION BY OWNERS AND USERS OF PROPERTY.

(4) IT IS THE POLICY OF THE STATE THAT COMPETITION AND ENTERPRISE SHALL BE SO DISPLACED OR LIMITED FOR THE ATTAINMENT OF THE PURPOSES OF THE STATE POLICY FOR IMPLEMENTING PLANNING AND ZONING CONTROLS AS PROVIDED BY PUBLIC LOCAL LAW AND PUBLIC GENERAL LAW.

(C) CONSTRUCTION.

SUBSECTION (B) OF THIS SECTION DOES NOT:

(1) GRANT TO THE COUNTY POWERS IN ANY SUBSTANTIVE AREA NOT OTHERWISE GRANTED TO THE COUNTY BY OTHER PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW;

(2) RESTRICT THE COUNTY FROM EXERCISING ANY POWER GRANTED TO THE COUNTY BY OTHER PUBLIC GENERAL LAW, PUBLIC LOCAL LAW, OR OTHERWISE;

(3) AUTHORIZE THE COUNTY OR ITS OFFICERS TO ENGAGE IN ANY ACTIVITY THAT IS BEYOND THEIR POWER UNDER OTHER PUBLIC GENERAL LAW, PUBLIC LOCAL LAW, OR OTHERWISE; OR

(4) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF ANY UNIT OF STATE GOVERNMENT UNDER ANY PUBLIC GENERAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(X).

In subsection (a)(1)(i) of this section, the reference to the right "to seek review" is substituted for the former reference to the right "of appeal" for accuracy.

In subsection (a)(2) of this section, the former reference to providing "by ordinance" is deleted as surplusage.

In subsection (b)(4) of this section, the phrase "as provided by" public local law and public general law is substituted for the former phrase "as set forth in this article and elsewhere in the public local and public general law" for brevity.

Also in subsection (b)(4) of this section, the former reference to the policy of the "General Assembly" is deleted as included in the reference to the policy of the "State".

In subsection (c)(4) of this section, the term "unit of State government" is substituted for the former term "State department or agency" for consistency with the terminology used throughout the revised articles of the Code. *See* General Revisor's Note to article.

Defined term: "State" § 1–101

10–325. HISTORIC LANDMARK ZONING AND PRESERVATION.

(A) IN GENERAL.

(1) A COUNTY MAY ENACT LAWS FOR HISTORIC AND LANDMARK ZONING AND PRESERVATION:

(I) GENERALLY;

(II) IN ACCORDANCE WITH TITLE 8 OF THE LAND USE ARTICLE; OR

(III) TO BE ADMINISTERED GENERALLY BY A HISTORIC DISTRICT COMMISSION.

(2) A LAW ENACTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY PROVIDE FOR APPEALS OR JUDICIAL REVIEW.

(B) AUTHORITY IN ADDITION TO OTHER POWERS.

THE AUTHORITY CONFERRED UNDER THIS SECTION IS IN ADDITION TO ANY CHARTER PROVISION OR LOCAL LAW THAT PROVIDES FOR PLANNING AND ZONING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(BB).

In subsection (a)(2) of this section, the reference to "judicial review" is added because the reference to "appeals" was overly limiting and to clarify that the section refers to administrative as well as judicial appeals.

In subsection (b) of this section, the former reference to any "existing" charter provisions is deleted as surplusage.

10–326. CONDITIONS FOR ACCEPTANCE OF RESIDENTIAL DEVELOPMENT.

A COUNTY MAY ENACT LOCAL LAWS THAT REQUIRE A DEVELOPER OF LAND FOR RESIDENTIAL USE TO COMPLY WITH PERTINENT UNDERGROUND ELECTRIC AND TELEPHONE RESIDENTIAL SERVICE REGULATIONS ADOPTED BY THE PUBLIC SERVICE COMMISSION, INCLUDING THOSE PERTAINING TO DEPOSITS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(EE).

The reference to local laws that "require a developer of land for residential use to comply" with Public Service Commission regulations is substituted for the former reference to local laws "conditioning the acceptance of any development of land for residential purposes approved by appropriate local authorities upon a demonstration, acceptable to local authorities, of compliance" with Public Service Commission regulations for brevity.

10–327. COUNTY BOARD OF HEALTH.

A COUNTY MAY ESTABLISH A COUNTY BOARD OF HEALTH TO ACT INSTEAD OF THE COUNTY LEGISLATIVE BODY AS THE COUNTY BOARD OF HEALTH UNDER TITLE 3, SUBTITLE 2 OF THE HEALTH – GENERAL ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(Y).

The former reference to "organiz[ing]" a county board of health is deleted as included in the reference to "establish[ing]" a county board of health.

10–328. NUISANCES AND HEALTH.

(A) IN GENERAL.

A COUNTY MAY PROVIDE FOR THE PREVENTION, ABATEMENT, AND REMOVAL OF NUISANCES.

(B) CONTAGIOUS DISEASES.

A COUNTY MAY PROVIDE FOR THE PREVENTION OF CONTAGIOUS DISEASES IN THE COUNTY.

(C) REGULATION OF OFFENSIVE TRADES.

A COUNTY MAY REGULATE ANY PLACE WHERE OFFENSIVE TRADES ARE CONDUCTED OR THAT MAY INVOLVE OR GIVE RISE TO UNSANITARY CONDITIONS OR CONDITIONS DETRIMENTAL TO HEALTH.

(D) CONSTRUCTION.

THIS TITLE DOES NOT AFFECT:

(1) ANY POWER OR DUTY OF THE SECRETARY OF HEALTH AND MENTAL HYGIENE OR THE SECRETARY OF THE ENVIRONMENT; OR

(2) ANY PUBLIC GENERAL LAW RELATING TO HEALTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(J).

In subsection (a) of this section, the reference to "provid[ing] for the prevention, abatement, and removal of nuisances" is added to clarify that these actions would be taken through legislative measures. Similarly, in subsection (b) of this section, the reference to "provid[ing] for" the prevention of the introduction of contagious diseases is added.

In subsection (c) of this section, the former reference to the places "of manufacturing soap and candles and fertilizers, slaughterhouses, packinghouses, canneries, factories, workshops, mines, manufacturing plants" is deleted as included in the reference to any place "where offensive trades are conducted or that may involve or give rise to unsanitary conditions or conditions detrimental to health".

In subsection (d) of this section, the former reference to a public general law "of the State" is deleted as surplusage.

Defined term: "State" § 1–101

10–329. ANIMALS.

A COUNTY MAY REGULATE THE CONDITIONS UNDER WHICH DOGS AND LIVESTOCK MAY BE AT LARGE OR PASS OVER PUBLIC WAYS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(L).

The former reference to "cows, sheep, pigs, [or] cattle" is deleted as included in the reference to "livestock".

The reference to "public ways" is substituted for the former reference to "streets, roads, alleys, lanes, bridges, highways and public places" for brevity.

10–330. FISH AND GAME LAWS.

A COUNTY MAY ENACT LOCAL FISH AND GAME LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25A, § 5(M).

GENERAL REVISOR'S NOTE TO TITLE

Former Art. 25A, § 6, which states that a judicial declaration of the invalidity or unconstitutionality of a clause or power in the article is severable from the article, is deleted as unnecessary in light of Art. 1, § 23 of the Code.