LAWS

OF THE

STATE OF MARYLAND

ENACTED

At the Session of the General Assembly Begun and Held in the
City of Annapolis on the Ninth Day of January 2008
and Ending on the Seventh Day of April 2008

Vetoes by the Governor following immediately after Acts

VOLUME I

The Department of Legislative Services
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2008 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 2008, and ending on the Seventh Day of April 2008, Martin O'Malley, being Governor of the State, the following laws were enacted, to wit:

CHAPTER 1

(Senate Bill 216)

AN ACT concerning

Real Property – Recordation of Instruments Securing Mortgage Loans and Foreclosure of Mortgages and Deeds of Trust on Residential Property

FOR the purpose of ~~prohibiting~~ requiring a mortgage, deed of trust, or other instrument securing a mortgage loan ~~from being recorded unless it contains~~ on certain residential property to contain certain information relating to the mortgage loan originator and the mortgage lender when recorded in the land records; requiring the Commissioner of Financial Regulation to adopt ~~certain~~ regulations to ~~enforce~~ *implement* certain provisions of this Act; prohibiting an action to foreclose a mortgage or deed of trust on certain residential property from being filed until after certain periods of time; authorizing a secured party to petition a circuit court for leave to immediately commence a foreclosure action under certain circumstances; requiring a certain notice of intent to foreclose to be sent to ~~a certain person~~ certain persons in a certain manner a certain period of time before the filing of an action to foreclose a mortgage or deed of trust on certain residential property; requiring the notice to be in a certain form and contain certain information; establishing certain requirements for an order to docket or a complaint to foreclose a mortgage or deed of trust on certain residential property; providing for service of an order to docket or a

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.

complaint to foreclose a mortgage or deed of trust on certain residential property; prohibiting a foreclosure sale of certain residential property from occurring until after a certain period of time; providing for publication of notice of a foreclosure sale; establishing that a mortgagor or grantor has the right to cure a default and reinstate the loan until a certain time; requiring the secured party or an authorized agent for the secured party to provide certain information to the mortgagor or grantor or the mortgagor's or grantor's attorney within a certain time; requiring that a certain action be brought within a certain period of time; making certain technical and stylistic changes; defining a certain term; providing for the application of certain provisions of this Act; *providing that the failure to include certain information when recording a mortgage, deed of trust, or any other instrument securing a mortgage loan may not be the basis for a clerk of the court to fail to record the instrument under certain circumstances; providing that a notice of intent to foreclose shall be construed to be sufficient under certain circumstances;* making this Act an emergency measure; and generally relating to foreclosure actions and ~~prerequisites to~~ recording instruments in the land records.

BY adding to
Article – Real Property
Section ~~3–104(h)~~ 3–104.1 and 7–105.1
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–105
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Real Property

~~3–104.~~ **3–104.1.**

(A) IN THIS SECTION, "RESIDENTIAL PROPERTY" MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

~~(H)~~ (B) ~~A~~ WHEN RECORDED, A MORTGAGE, DEED OF TRUST, OR ANY OTHER INSTRUMENT SECURING A MORTGAGE LOAN ~~MAY NOT BE RECORDED UNLESS IT CONTAINS~~ ON RESIDENTIAL PROPERTY SHALL CONTAIN:

(1) (I) THE NAME AND MARYLAND MORTGAGE ORIGINATOR LICENSE NUMBER OF THE MORTGAGE ORIGINATOR THAT ORIGINATED THE LOAN SECURED BY THE INSTRUMENT; OR

(II) AN AFFIDAVIT BY THE ~~INDIVIDUAL~~ PERSON THAT ORIGINATED THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE INDIVIDUAL *WHO ORIGINATED THE LOAN* IS EXEMPT FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE; AND

(2) (I) THE NAME AND MARYLAND MORTGAGE LENDER LICENSE NUMBER OF THE MORTGAGE LENDER THAT MADE THE LOAN SECURED BY THE INSTRUMENT; OR

(II) AN AFFIDAVIT BY THE LENDER THAT MADE THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE LENDER IS EXEMPT FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(C) THE COMMISSIONER OF FINANCIAL REGULATION SHALL ADOPT REGULATIONS TO ~~ENFORCE~~ *IMPLEMENT* THE PROVISIONS OF THIS SECTION, INCLUDING:

(1) MINIMUM REQUIREMENTS FOR THE INCLUSION OF LICENSING INFORMATION WHEN A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT SECURING A MORTGAGE LOAN ON RESIDENTIAL PROPERTY IS RECORDED; AND

(2) ~~PENALTIES~~ *CONSEQUENCES, INCLUDING PENALTIES,* FOR THE FAILURE TO INCLUDE LICENSING INFORMATION WHEN A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT SECURING A MORTGAGE LOAN ON RESIDENTIAL PROPERTY IS RECORDED.

7–105.

(a) A provision may be inserted in a mortgage or deed of trust authorizing any natural person named in the instrument, including the secured party, to sell the property or declaring the borrower's assent to the passing of a decree for the sale of the property, on default in a condition on which the mortgage or deed of trust provides that a sale may be made.

(B) A sale made pursuant to this section**, §§ 7–105.1 THROUGH 7–105.8 OF THIS SUBTITLE,** or **[**to**]** the Maryland Rules, after final ratification by the court and

grant of the property to the purchaser on payment of the purchase money, has the same effect as if the sale and grant were made under decree between the proper parties in relation to the mortgage or deed of trust and in the usual course of the court, and operates to pass all the title which the borrower had in the property at the time of the recording of the mortgage or deed of trust.

[(a–1) (1) In this subsection, "record owner" means the person holding record title to residential real property as of the date on which an action to foreclose the mortgage or deed of trust is filed.

(2) In addition to any notice required to be given by provisions of the Annotated Code of Maryland or the Maryland Rules, the person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of the action to the record owner of the property to be sold.

(3) (i) The written notice shall be sent no later than 2 days after the action to foreclose is docketed:

1. By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service, to the record owner; and

2. By first–class mail.

(ii) The notice shall state that an action to foreclose the mortgage or deed of trust may be or has been docketed and that a foreclosure sale of the property will be held.

(iii) The notice shall contain the following statement printed in at least 14 point boldface type:

"NOTICE REQUIRED BY MARYLAND LAW

Mortgage foreclosure is a complex process. Some people may approach you about "saving" your home. You should be careful about any such promises.

The State encourages you to become informed about your options in foreclosure before entering into any agreements with anyone in connection with the foreclosure of your home. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Consumer Protection Division of the Office of the Attorney General of Maryland at 1–888–743–0023. The State does not guarantee the advice of these organizations.

Do not delay dealing with the foreclosure because your options may become more limited as time passes.".**]**

7–105.1.

(A) IN THIS SECTION, "RESIDENTIAL PROPERTY" MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY MAY NOT BE FILED UNTIL ~~AT LEAST~~ THE LATER OF:

(I) 90 DAYS AFTER A DEFAULT IN A CONDITION ON WHICH THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE; ~~AND~~ OR

(II) 45 DAYS AFTER THE NOTICE OF INTENT TO FORECLOSE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION IS SENT.

(2) (I) THE SECURED PARTY MAY PETITION THE CIRCUIT COURT FOR LEAVE TO IMMEDIATELY COMMENCE AN ACTION TO FORECLOSE THE MORTGAGE OR DEED OF TRUST IF:

1. THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST WAS OBTAINED BY FRAUD OR DECEPTION;

2. NO PAYMENTS HAVE EVER BEEN MADE ON THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST;

3. THE PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST HAS BEEN DESTROYED; OR

4. THE DEFAULT OCCURRED AFTER THE STAY HAS BEEN LIFTED IN A BANKRUPTCY PROCEEDING.

(II) THE COURT MAY RULE ON THE PETITION WITH OR WITHOUT A HEARING.

(III) IF THE PETITION IS GRANTED, THE ACTION MAY BE FILED AT ANY TIME AFTER A DEFAULT IN A CONDITION ON WHICH THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE AND THE

SECURED PARTY NEED NOT SEND THE WRITTEN NOTICE OF INTENT TO FORECLOSE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (B)(2)(III) OF THIS SECTION, AT LEAST 45 DAYS BEFORE THE FILING OF AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY, THE SECURED PARTY SHALL SEND A WRITTEN NOTICE OF INTENT TO FORECLOSE TO THE MORTGAGOR OR GRANTOR AND THE RECORD OWNER.

(2) THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT:

(I) BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE; AND

(II) BY FIRST–CLASS MAIL.

(3) A COPY OF THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT TO THE COMMISSIONER OF FINANCIAL REGULATION.

(4) THE NOTICE OF INTENT TO FORECLOSE SHALL:

(I) BE IN THE FORM THAT THE COMMISSIONER OF FINANCIAL REGULATION PRESCRIBES BY REGULATION; AND

(II) CONTAIN:

1. THE NAME AND TELEPHONE NUMBER OF:

A. THE SECURED PARTY;

B. THE MORTGAGE SERVICER, IF APPLICABLE; *AND*

C. ~~THE MORTGAGE BROKER OR ORIGINATOR, IF APPLICABLE; AND~~

~~D.~~ AN AGENT OF THE SECURED PARTY WHO IS AUTHORIZED TO MODIFY THE TERMS OF THE MORTGAGE LOAN;

2. THE ~~MARYLAND~~ *NAME AND* LICENSE NUMBER OF THE *MARYLAND* MORTGAGE LENDER AND MORTGAGE ORIGINATOR, *IF APPLICABLE*;

3. THE AMOUNT REQUIRED TO CURE THE DEFAULT AND REINSTATE THE LOAN, INCLUDING ALL PAST DUE PAYMENTS, PENALTIES, AND FEES; AND

4. ANY OTHER INFORMATION THAT THE COMMISSIONER OF FINANCIAL REGULATION REQUIRES BY REGULATION.

(D) AN ORDER TO DOCKET OR A COMPLAINT TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY SHALL:

(1) INCLUDE:

(I) ~~THE~~ IF APPLICABLE, THE LICENSE NUMBER OF:

1. ~~IF APPLICABLE, THE~~ THE MORTGAGE ORIGINATOR; AND

2. THE MORTGAGE LENDER; AND

(II) AN AFFIDAVIT STATING:

1. THE DATE ON WHICH THE DEFAULT OCCURRED AND THE NATURE OF THE DEFAULT; AND

2. IF APPLICABLE, THAT A NOTICE OF INTENT TO FORECLOSE WAS SENT TO THE MORTGAGOR OR GRANTOR IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND THE DATE ON WHICH THE NOTICE WAS SENT; AND

(2) BE ACCOMPANIED BY:

(I) THE ORIGINAL OR A CERTIFIED COPY OF THE MORTGAGE OR DEED OF TRUST;

(II) A STATEMENT OF THE DEBT REMAINING DUE AND PAYABLE SUPPORTED BY AN AFFIDAVIT OF THE PLAINTIFF OR THE SECURED PARTY OR THE AGENT OR ATTORNEY OF THE PLAINTIFF OR SECURED PARTY;

(III) A COPY OF THE DEBT INSTRUMENT ACCOMPANIED BY AN AFFIDAVIT CERTIFYING OWNERSHIP OF THE DEBT INSTRUMENT;

(IV) IF APPLICABLE, THE ORIGINAL OR A CERTIFIED COPY OF THE ASSIGNMENT OF THE MORTGAGE FOR PURPOSES OF FORECLOSURE OR THE DEED OF APPOINTMENT OF A SUBSTITUTE TRUSTEE;

(V) IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT THAT:

1. THE INDIVIDUAL IS NOT A SERVICEMEMBER, AS DEFINED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, 50 U.S.C. APPENDIX § 511; OR

2. THE ACTION IS AUTHORIZED BY THE ACT;

(VI) IF APPLICABLE, A COPY OF THE NOTICE OF INTENT TO FORECLOSE; AND

(VII) A NOTICE TO THE MORTGAGOR IN SUBSTANTIALLY THE FOLLOWING FORM, AS PRESCRIBED BY *REGULATION BY* THE COMMISSIONER OF FINANCIAL REGULATION:

"NOTICE

AN ACTION TO FORECLOSE THE MORTGAGE/DEED OF TRUST ON THE PROPERTY LOCATED AT (INSERT ADDRESS) HAS BEEN FILED IN THE CIRCUIT COURT FOR (COUNTY).

A FORECLOSURE SALE OF THE PROPERTY MAY OCCUR AT ANY TIME AFTER 45 DAYS FROM THE DATE THAT THIS NOTICE IS SERVED ON YOU.

YOU MAY STOP THE SALE AND REINSTATE YOUR MORTGAGE LOAN BY PAYING ALL AMOUNTS DUE ON YOUR LOAN, PLUS FEES AND COSTS OF THE FORECLOSURE ACTION, AT ANY TIME UP TO ONE BUSINESS DAY BEFORE THE SALE. PLEASE CONTACT (INSERT NAME OF AUTHORIZED AGENT OF SECURED PARTY) AT (INSERT TELEPHONE NUMBER) TO OBTAIN THE AMOUNT DUE TO CURE THE DEFAULT ON YOUR MORTGAGE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.

YOU ARE URGED TO OBTAIN LEGAL ADVICE TO DISCUSS OTHER OPTIONS TO STOP THE FORECLOSURE SALE, WHICH MAY INCLUDE FILING A MOTION FOR INJUNCTION WITH THE CIRCUIT COURT OR A PETITION FOR BANKRUPTCY IN FEDERAL BANKRUPTCY COURT. A MOTION FOR INJUNCTION OR A BANKRUPTCY PETITION MUST BE FILED BEFORE THE FORECLOSURE SALE OCCURS.

IF YOU ARE INTERESTED IN SELLING YOUR HOME TO AVOID A FORECLOSURE SALE, YOU MAY WISH TO CONTACT A LICENSED REAL ESTATE BROKER OR SALESPERSON AS SOON AS POSSIBLE.

HOUSING COUNSELING AND FINANCIAL ASSISTANCE PROGRAMS ARE AVAILABLE THROUGH THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT. PLEASE CALL ~~1–877–462–7555~~ (INSERT TELEPHONE NUMBER) FOR INFORMATION ON AVAILABLE RESOURCES.

SOME PEOPLE MAY APPROACH YOU ABOUT "SAVING" YOUR HOME. YOU SHOULD BE CAREFUL ABOUT ANY SUCH PROMISES.

THE STATE ENCOURAGES YOU TO BECOME INFORMED ABOUT YOUR OPTIONS IN FORECLOSURE BEFORE ENTERING INTO ANY AGREEMENTS WITH ANYONE IN CONNECTION WITH THE FORECLOSURE OF YOUR HOME. THERE ARE GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT YOU MAY CONTACT FOR HELPFUL INFORMATION ABOUT THE FORECLOSURE PROCESS. FOR THE NAME AND TELEPHONE NUMBER OF AN ORGANIZATION NEAR YOU, PLEASE CALL THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL OF MARYLAND AT ~~1–888–743–0023~~ (INSERT TELEPHONE NUMBER). THE STATE DOES NOT GUARANTEE THE ADVICE OF THESE ORGANIZATIONS.

DO NOT DELAY DEALING WITH THE FORECLOSURE BECAUSE YOUR OPTIONS WILL BECOME MORE LIMITED AS TIME PASSES.".

(E) (1) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE ON RESIDENTIAL PROPERTY AND ALL OTHER PAPERS FILED WITH IT SHALL BE SERVED BY:

(I) PERSONAL DELIVERY OF THE PAPERS TO THE MORTGAGOR OR GRANTOR; OR

(II) LEAVING THE PAPERS WITH A RESIDENT OF SUITABLE AGE AND DISCRETION AT THE MORTGAGOR'S OR GRANTOR'S DWELLING HOUSE OR USUAL PLACE OF ABODE.

(2) IF AT LEAST TWO GOOD FAITH EFFORTS TO SERVE THE MORTGAGOR OR GRANTOR UNDER SUBSECTION (E)(1) OF THIS SECTION ON DIFFERENT DAYS HAVE NOT SUCCEEDED, THE PLAINTIFF MAY *EFFECT SERVICE BY*:

(I) ~~FILE~~ *FILING* AN AFFIDAVIT WITH THE COURT DESCRIBING THE GOOD FAITH EFFORTS TO SERVE THE MORTGAGOR OR GRANTOR; AND

(II) 1. ~~MAIL~~ *MAILING* A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST–CLASS MAIL TO THE MORTGAGOR'S OR GRANTOR'S LAST KNOWN ADDRESS AND, IF DIFFERENT, TO THE ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST; AND

2. ~~POST~~ *POSTING* A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST.

(3) THE INDIVIDUAL MAKING SERVICE OF PROCESS UNDER THIS SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE WITH THE MARYLAND RULES.

(F) A FORECLOSURE SALE OF RESIDENTIAL PROPERTY MAY NOT OCCUR UNTIL AT LEAST 45 DAYS AFTER SERVICE OF PROCESS IS MADE UNDER SUBSECTION (E) OF THIS SECTION.

(G) NOTICE OF THE TIME, PLACE, AND TERMS OF A FORECLOSURE SALE SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE ACTION IS PENDING AT LEAST ONCE~~, NOT LESS THAN 10 DAYS BEFORE THE SALE~~ A WEEK FOR 3 SUCCESSIVE WEEKS, THE FIRST PUBLICATION TO BE NOT LESS THAN 15 DAYS BEFORE THE SALE AND THE LAST PUBLICATION TO BE NOT MORE THAN 1 WEEK BEFORE THE SALE.

(H) (1) THE MORTGAGOR OR GRANTOR HAS THE RIGHT TO CURE THE DEFAULT BY PAYING ALL PAST DUE PAYMENTS, PENALTIES, AND FEES AND REINSTATE THE LOAN AT ANY TIME UP TO 1 BUSINESS DAY BEFORE THE FORECLOSURE SALE OCCURS.

(2) THE SECURED PARTY OR AN AUTHORIZED AGENT OF THE SECURED PARTY SHALL, ON REQUEST, PROVIDE TO THE MORTGAGOR OR GRANTOR OR THE MORTGAGOR'S OR GRANTOR'S ATTORNEY WITHIN A REASONABLE TIME THE AMOUNT NECESSARY TO CURE THE DEFAULT AND REINSTATE THE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.

(I) AN ACTION FOR FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL BE BROUGHT WITHIN 3 YEARS AFTER THE DATE OF THE ORDER RATIFYING THE SALE.

7–105.2.

[(b) (1) (i)**] (A)** In this **[**subsection**]** **SECTION**, "record owner" means the person holding record title to property as of the later of:

[1.**] (1)** 30 days before the day on which a foreclosure sale of the property is actually held; and

[2.**] (2)** The date on which an action to foreclose the mortgage or deed of trust is filed.

[(ii)**] (B)** In addition to any notice required to be given by provisions of the Annotated Code of Maryland or the Maryland Rules, the person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of the proposed sale to the record owner of the property to be sold.

[(2) (i)**] (C)(1)** The written notice shall be sent:

[1.**] (I)** By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service, to the record owner; and

[2.**] (II)** By first–class mail.

[(ii)**] (2)** The notice shall state the time, place, and terms of the sale and shall be sent not earlier than 30 days and not later than 10 days before the date of sale.

[(iii)**] (3)** The person giving the notice shall file in the proceedings:

[1.**] (I)** A return receipt; or

[2.**] (II)** An affidavit that:

[A.**] 1.** The provisions of this **[**paragraph**]** **SUBSECTION** have been complied with; or

[B.**] 2.** The address of the record owner is not reasonably ascertainable.

[(iv)**] (4)** The person authorized to make a sale in an action to foreclose a mortgage or deed of trust is not required to give notice to a record owner whose address is not reasonably ascertainable.

[(3)**] (D)** In the event of postponement of sale, which may be done in the discretion of the trustee, no new or additional notice need be given pursuant to this section.

[(4)**] (E)** The right of a record owner to file an action for the failure of the person authorized to make a sale in an action to foreclose a mortgage or deed of trust to comply with the provisions of this **[**subsection**]** **SECTION** shall expire 3 years after the date of the order ratifying the foreclosure sale.

7–105.3.

[(c) (1)**] (A)** In this **[**subsection**]** **SECTION**, "holder of a subordinate interest" includes any condominium council of unit owners or homeowners association that has filed a request for notice of sale under **[**paragraph (3) of this**]** subsection **(C) OF THIS SECTION**.

[(2)**] (B)** The person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of any proposed foreclosure sale to the holder of any subordinate mortgage, deed of trust, or other subordinate interest, including a judgment, in accordance with **[**subsection (b) of this section**]** **§ 7–105.2 OF THIS SUBTITLE** and the requirements of Maryland Rule 14–206.

[(3) (i)**] (C) (1)** The land records office of each county shall maintain a current listing of recorded requests for notice of sale by holders of subordinate mortgages, deeds of trust, or other subordinate interests.

(2) The holder of a subordinate mortgage, deed of trust, or other subordinate interest may file a request for notice under this **[**paragraph**]** **SUBSECTION**.

[(ii)**] (3)** Each request for notice of sale shall:

[1.**] (I)** Be recorded in a separate docket or book which shall be indexed under the name of the holder of the superior mortgage or deed of

trust and under the book and page numbers where the superior mortgage or deed of trust is recorded;

[2.**] (II)** Identify the property in which the subordinate interest is held;

[3.**] (III)** State the name and address of the holder of the subordinate interest; and

[4.**] (IV)** Identify the superior mortgage or deed of trust by stating:

[A.**] 1.** The names of the original parties to the superior mortgage or deed of trust;

[B.**] 2.** The date the superior mortgage or deed of trust was recorded; and

[C.**] 3.** The office, docket or book, and page where the superior mortgage or deed of trust is recorded.

[(iii) 1.**] (4) (I)** Except as provided in **[**sub–subparagraph 2 of this**]** subparagraph **(II) OF THIS PARAGRAPH**, failure of a holder of a subordinate mortgage, deed of trust, or other subordinate interest to record a request for notice under this **[**paragraph**] SUBSECTION** does not affect the duty of a holder of a superior interest to provide notice as required under this **[**subsection**] SECTION**.

[2.**] (II)** A holder of a superior interest does not have a duty to provide notice to a condominium council of unit owners or homeowners association that has not filed a request for notice under this **[**paragraph**] SUBSECTION**.

[(4)**] (D)** The person giving notice under this **[**subsection**] SECTION** shall file in the action:

[(i)**] (1)** The return receipt from the notice; or

[(ii)**] (2)** An affidavit that:

[1.**] (I)** The notice provisions of this **[**subsection**] SECTION** have been complied with; or

[2.**] (II)** The address of the holder of the subordinate interest is not reasonably ascertainable.

[(5)**] (E)** The person authorized to make a sale in an action to foreclose a mortgage or deed of trust is not required to give notice to the holder of a subordinate mortgage, deed of trust, or other subordinate interest if:

[(i)**] (1)** The existence of the mortgage, deed of trust, or other subordinate interest is not reasonably ascertainable;

[(ii)**] (2)** The identity or address of the holder of the mortgage, deed of trust, or other subordinate interest is not reasonably ascertainable;

[(iii)**] (3)** With respect to a recorded or filed subordinate mortgage, deed of trust, or other recorded or filed subordinate interest, the recordation or filing occurred after the later of:

[1.**] (I)** 30 days before the day on which the foreclosure sale was actually held; and

[2.**] (II)** The date the action to foreclose the mortgage or deed of trust was filed;

[(iv)**] (4)** With respect to an unrecorded or unfiled subordinate mortgage, deed of trust, or other unrecorded or unfiled subordinate interest, the subordinate interest was created after the later of:

[1.**] (I)** 30 days before the day on which the foreclosure sale was actually held; and

[2.**] (II)** The date the action to foreclose the mortgage or deed of trust was filed; or

[(v)**] (5)** With respect to a condominium council of unit owners or homeowners association, the condominium council of unit owners or homeowners association has not filed a request for notice under **[**paragraph (3) of this**]** subsection **(C) OF THIS SECTION**.

[(6)**] (F)** The right of a holder of a subordinate mortgage, deed of trust, or other subordinate interest to file an action for the failure of the person authorized to make a sale in an action to foreclose a mortgage or deed of trust to comply with the provisions of this **[**subsection**] SECTION** shall expire 3 years after the date of the order ratifying the foreclosure sale.

7–105.4.

[(d) (1)**] (A)** Absent a provision to the contrary in a mortgage or note secured by a deed of trust, in the enumerated counties, the interest provided in a mortgage or note secured by a deed of trust is payable for the time period provided in **[**paragraph (2) of this**]** subsection **(B) OF THIS SECTION** or until the audit of the sale is ratified, whichever occurs first.

[(2)**] (B)** Under **[**paragraph (1) of this**]** subsection **(A) OF THIS SECTION**, the time period following sale is:

[(i)**] (1)** 60 days in Calvert, Cecil, Frederick, Kent, Queen Anne's, Talbot, Caroline, Charles, and St. Mary's counties; and

[(ii)**] (2)** 180 days in Worcester County.

7–105.5.

[(e)**]** No title to property acquired at sale of property subject to a mortgage or deed of trust is invalid by reason of the fact that the property was purchased by the secured party, his assignee, or representative, or for his account.

7–105.6.

[(f) (1)**] (A)** Any purchaser at a foreclosure sale of a mortgage or deed of trust has the same rights and remedies against the tenants of the mortgagor or grantor as the mortgagor or grantor had, and the tenants have the same rights and remedies against the purchaser as they would have had against the mortgagor or grantor on the date the mortgage or deed of trust was recorded.

[(2)**] (B) (1)** If the required advertisement of sale so discloses, a foreclosure sale shall be made subject to one or more of the tenancies entered into subsequent to the recording of the mortgage or deed of trust or otherwise subordinated thereto.

(2) Any lease so continuing is unaffected by the sale, except the purchaser shall become the landlord, as of the date of the sale, on ratification of the sale.

7–105.7.

[(g) (1)**] (A)** Except as provided in this **[**subsection**] SECTION**, unless the mortgage or deed of trust provides otherwise, if any property is encumbered by a mortgage or deed of trust, annual crops planted or cultivated by any debtor or those claiming under him do not pass with the property at any sale under or by virtue of the mortgage or deed of trust, but the crops remain the property of the debtor or those claiming under him.

[(2)**] (B) (1)** Notwithstanding the provisions of **[**paragraph (1) of this**]** subsection **(A) OF THIS SECTION**, after the sale, the debtor or those claiming under him and the purchaser or those claiming under him may agree on a reasonable rental of the part of the property occupied by the crops.

(2) This rental is a lien on the crops and continues until paid in favor of the purchaser or those claiming under him, and neither the crops nor any part of them may be removed until after payment.

(3) If the parties are unable to agree on the rental, any party in interest may apply to the court having jurisdiction over the sale or the confirmation of it for the appointment of disinterested appraisers to determine the rental, whose award shall be final.

[(3)**] (C) (1)** In addition to any other remedy, the purchaser or those claiming under him, on ascertainment of the rent, may distrain for the rent or any part of it remaining due, as in the case of landlord and tenant.

(2) No provision of this section is intended to interfere with the right of the purchaser or those claiming under him to have possession of the property, except as to the part occupied by the crop, with necessary ingress or egress.

7–105.8.

[(h)**]** The entry of an order for resale on default by a purchaser at a sale under **[**this section**] §§ 7–105 THROUGH 7–105.7 OF THIS SUBTITLE** and Title 14 of the Maryland Rules:

(1) Does not affect the prior ratification of the sale and does not restore to the mortgagor or former record owner any right or remedy that was extinguished by the prior sale and its ratification; and

(2) Extinguishes all interest of the defaulting purchaser in the real property being foreclosed and in the proceeds of the resale.

SECTION 2. AND BE IT FURTHER ENACTED, That § 3–104.1 of the Real Property Article, as enacted by Section 1 of 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 mortgage, deed of trust, or other instrument recorded before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That § 7–105.1 of the Real Property Article, as enacted by Section 1 of 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 foreclosure action filed before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, until the Commissioner of Financial Regulation adopts regulations under § 3–104.1(c) of the Real Property Article, as enacted by Section 1 of this Act, the failure to include the information required in § 3–104.1(b) of the Real Property Article, as enacted by Section 1 of this Act, when recording a mortgage, deed of trust, or any other instrument securing a mortgage loan may not be the basis for a clerk of the court to fail to record the instrument.

SECTION 5. AND BE IT FURTHER ENACTED, That, until the Commissioner of Financial Regulation adopts regulations under § 7–105.1(c)(4)(i) and (ii)4 of the Real Property Article, as enacted by Section 1 of this Act, a notice of intent to foreclose shall be construed to be sufficient if the notice contains the information required under § 7–105.1(c)(4)(ii)1 through 3 of the Real Property Article, as enacted by Section 1 of this Act.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.~~

SECTION ~~4.~~ *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 3, 2008.

CHAPTER 2

(House Bill 365)

AN ACT concerning

Real Property – Recordation of Instruments Securing Mortgage Loans and Foreclosure of Mortgages and Deeds of Trust on Residential Property

FOR the purpose of ~~prohibiting~~ requiring a mortgage, deed of trust, or other instrument securing a mortgage loan ~~from being recorded unless it contains~~ on certain residential property to contain certain information relating to the mortgage loan originator and the mortgage lender when recorded in the land records; requiring the Commissioner of Financial Regulation to adopt ~~certain~~ regulations to ~~enforce~~ *implement* certain provisions of this Act; prohibiting an action to foreclose a mortgage or deed of trust on certain residential property from being filed until after certain periods of time; authorizing a secured party to petition a circuit court for leave to immediately commence a foreclosure action under certain circumstances; requiring a certain notice of intent to foreclose to be sent to ~~a certain person~~ certain persons in a certain manner a certain period of time before the filing of an action to foreclose a mortgage or deed of trust on certain residential property; requiring the notice to be in a certain form and contain certain information; establishing certain requirements for an order to docket or a complaint to foreclose a mortgage or deed of trust on certain residential property; providing for service of an order to docket or a complaint to foreclose a mortgage or deed of trust on certain residential property; prohibiting a foreclosure sale of certain residential property from occurring until after a certain period of time; providing for publication of notice of a foreclosure sale; establishing that a mortgagor or grantor has the right to cure a default and reinstate the loan until a certain time; requiring the secured party or an authorized agent for the secured party to provide certain information to the mortgagor or grantor or the mortgagor's or grantor's attorney within a certain time; requiring that a certain action be brought within a certain period of time; making certain technical and stylistic changes; defining a certain term; providing for the application of certain provisions of this Act; *providing that the failure to include certain information when recording a mortgage, deed of trust, or any other instrument securing a mortgage loan may not be the basis for a clerk of the court to fail to record the instrument under certain circumstances; providing that a notice of intent to foreclose shall be construed to be sufficient under certain circumstances;* making this Act an emergency measure; and generally relating to foreclosure actions and ~~prerequisites to~~ recording instruments in the land records.

BY adding to
Article – Real Property
Section ~~3–104(h)~~ 3–104.1 and 7–105.1
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–105

Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Real Property

~~3–104.~~ **3–104.1.**

(A) IN THIS SECTION, "RESIDENTIAL PROPERTY" MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

~~(H)~~ (B) ~~A~~ WHEN RECORDED, A MORTGAGE, DEED OF TRUST, OR ANY OTHER INSTRUMENT SECURING A MORTGAGE LOAN ~~MAY NOT BE RECORDED UNLESS IT CONTAINS~~ ON RESIDENTIAL PROPERTY SHALL CONTAIN:

(1) (I) THE NAME AND MARYLAND MORTGAGE ORIGINATOR LICENSE NUMBER OF THE MORTGAGE ORIGINATOR THAT ORIGINATED THE LOAN SECURED BY THE INSTRUMENT; OR

(II) AN AFFIDAVIT BY THE ~~INDIVIDUAL~~ PERSON THAT ORIGINATED THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE INDIVIDUAL *WHO ORIGINATED THE LOAN* IS EXEMPT FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE; AND

(2) (I) THE NAME AND MARYLAND MORTGAGE LENDER LICENSE NUMBER OF THE MORTGAGE LENDER THAT MADE THE LOAN SECURED BY THE INSTRUMENT; OR

(II) AN AFFIDAVIT BY THE LENDER THAT MADE THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE LENDER IS EXEMPT FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(C) THE COMMISSIONER OF FINANCIAL REGULATION SHALL ADOPT REGULATIONS TO ~~ENFORCE~~ *IMPLEMENT* THE PROVISIONS OF THIS SECTION, INCLUDING:

(1) MINIMUM REQUIREMENTS FOR THE INCLUSION OF LICENSING INFORMATION WHEN A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT SECURING A MORTGAGE LOAN ON RESIDENTIAL PROPERTY IS RECORDED; AND

(2) ~~PENALTIES~~ *CONSEQUENCES, INCLUDING PENALTIES,* FOR THE FAILURE TO INCLUDE LICENSING INFORMATION WHEN A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT SECURING A MORTGAGE LOAN ON RESIDENTIAL PROPERTY IS RECORDED.

7–105.

(a) A provision may be inserted in a mortgage or deed of trust authorizing any natural person named in the instrument, including the secured party, to sell the property or declaring the borrower's assent to the passing of a decree for the sale of the property, on default in a condition on which the mortgage or deed of trust provides that a sale may be made.

(B) A sale made pursuant to this section**, §§ 7–105.1 THROUGH 7–105.8 OF THIS SUBTITLE,** or **[**to**]** the Maryland Rules, after final ratification by the court and grant of the property to the purchaser on payment of the purchase money, has the same effect as if the sale and grant were made under decree between the proper parties in relation to the mortgage or deed of trust and in the usual course of the court, and operates to pass all the title which the borrower had in the property at the time of the recording of the mortgage or deed of trust.

[(a–1) (1) In this subsection, "record owner" means the person holding record title to residential real property as of the date on which an action to foreclose the mortgage or deed of trust is filed.

(2) In addition to any notice required to be given by provisions of the Annotated Code of Maryland or the Maryland Rules, the person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of the action to the record owner of the property to be sold.

(3) (i) The written notice shall be sent no later than 2 days after the action to foreclose is docketed:

1. By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service, to the record owner; and

2. By first–class mail.

(ii) The notice shall state that an action to foreclose the mortgage or deed of trust may be or has been docketed and that a foreclosure sale of the property will be held.

(iii) The notice shall contain the following statement printed in at least 14 point boldface type:

"NOTICE REQUIRED BY MARYLAND LAW

Mortgage foreclosure is a complex process. Some people may approach you about "saving" your home. You should be careful about any such promises.

The State encourages you to become informed about your options in foreclosure before entering into any agreements with anyone in connection with the foreclosure of your home. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Consumer Protection Division of the Office of the Attorney General of Maryland at 1–888–743–0023. The State does not guarantee the advice of these organizations.

Do not delay dealing with the foreclosure because your options may become more limited as time passes.".**]**

7–105.1.

(A) IN THIS SECTION, "RESIDENTIAL PROPERTY" MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY MAY NOT BE FILED UNTIL ~~AT LEAST~~ THE LATER OF:

(I) 90 DAYS AFTER A DEFAULT IN A CONDITION ON WHICH THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE; ~~AND~~ OR

(II) 45 DAYS AFTER THE NOTICE OF INTENT TO FORECLOSE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION IS SENT.

(2) (I) THE SECURED PARTY MAY PETITION THE CIRCUIT COURT FOR LEAVE TO IMMEDIATELY COMMENCE AN ACTION TO FORECLOSE THE MORTGAGE OR DEED OF TRUST IF:

1. THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST WAS OBTAINED BY FRAUD OR DECEPTION;

2. NO PAYMENTS HAVE EVER BEEN MADE ON THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST;

3. THE PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST HAS BEEN DESTROYED; OR

4. THE DEFAULT OCCURRED AFTER THE STAY HAS BEEN LIFTED IN A BANKRUPTCY PROCEEDING.

(II) THE COURT MAY RULE ON THE PETITION WITH OR WITHOUT A HEARING.

(III) IF THE PETITION IS GRANTED, THE ACTION MAY BE FILED AT ANY TIME AFTER A DEFAULT IN A CONDITION ON WHICH THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE AND THE SECURED PARTY NEED NOT SEND THE WRITTEN NOTICE OF INTENT TO FORECLOSE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (B)(2)(III) OF THIS SECTION, AT LEAST 45 DAYS BEFORE THE FILING OF AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY, THE SECURED PARTY SHALL SEND A WRITTEN NOTICE OF INTENT TO FORECLOSE TO THE MORTGAGOR OR GRANTOR AND THE RECORD OWNER.

(2) THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT:

(I) BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE; AND

(II) BY FIRST–CLASS MAIL.

(3) A COPY OF THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT TO THE COMMISSIONER OF FINANCIAL REGULATION.

(4) THE NOTICE OF INTENT TO FORECLOSE SHALL:

(I) BE IN THE FORM THAT THE COMMISSIONER OF FINANCIAL REGULATION PRESCRIBES BY REGULATION; AND

(II) CONTAIN:

1. THE NAME AND TELEPHONE NUMBER OF:

A. THE SECURED PARTY;

B. THE MORTGAGE SERVICER, IF APPLICABLE; *AND*

C. ~~THE MORTGAGE BROKER OR ORIGINATOR, IF APPLICABLE; AND~~

~~D.~~ AN AGENT OF THE SECURED PARTY WHO IS AUTHORIZED TO MODIFY THE TERMS OF THE MORTGAGE LOAN;

2. THE ~~MARYLAND~~ *NAME AND* LICENSE NUMBER OF THE *MARYLAND* MORTGAGE LENDER AND MORTGAGE ORIGINATOR, *IF APPLICABLE*;

3. THE AMOUNT REQUIRED TO CURE THE DEFAULT AND REINSTATE THE LOAN, INCLUDING ALL PAST DUE PAYMENTS, PENALTIES, AND FEES; AND

4. ANY OTHER INFORMATION THAT THE COMMISSIONER OF FINANCIAL REGULATION REQUIRES BY REGULATION.

(D) AN ORDER TO DOCKET OR A COMPLAINT TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY SHALL:

(1) INCLUDE:

(I) ~~THE~~ IF APPLICABLE, THE LICENSE NUMBER OF:

1. ~~IF APPLICABLE, THE~~ THE MORTGAGE ORIGINATOR; AND

2. THE MORTGAGE LENDER; AND

(II) AN AFFIDAVIT STATING:

1. THE DATE ON WHICH THE DEFAULT OCCURRED AND THE NATURE OF THE DEFAULT; AND

2. IF APPLICABLE, THAT A NOTICE OF INTENT TO FORECLOSE WAS SENT TO THE MORTGAGOR OR GRANTOR IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND THE DATE ON WHICH THE NOTICE WAS SENT; AND

(2) BE ACCOMPANIED BY:

(I) THE ORIGINAL OR A CERTIFIED COPY OF THE MORTGAGE OR DEED OF TRUST;

(II) A STATEMENT OF THE DEBT REMAINING DUE AND PAYABLE SUPPORTED BY AN AFFIDAVIT OF THE PLAINTIFF OR THE SECURED PARTY OR THE AGENT OR ATTORNEY OF THE PLAINTIFF OR SECURED PARTY;

(III) A COPY OF THE DEBT INSTRUMENT ACCOMPANIED BY AN AFFIDAVIT CERTIFYING OWNERSHIP OF THE DEBT INSTRUMENT;

(IV) IF APPLICABLE, THE ORIGINAL OR A CERTIFIED COPY OF THE ASSIGNMENT OF THE MORTGAGE FOR PURPOSES OF FORECLOSURE OR THE DEED OF APPOINTMENT OF A SUBSTITUTE TRUSTEE;

(V) IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT THAT:

1. THE INDIVIDUAL IS NOT A SERVICEMEMBER, AS DEFINED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, 50 U.S.C. APPENDIX § 511; OR

2. THE ACTION IS AUTHORIZED BY THE ACT;

(VI) IF APPLICABLE, A COPY OF THE NOTICE OF INTENT TO FORECLOSE; AND

(VII) A NOTICE TO THE MORTGAGOR IN SUBSTANTIALLY THE FOLLOWING FORM, AS PRESCRIBED BY *REGULATION BY* THE COMMISSIONER OF FINANCIAL REGULATION:

"NOTICE

AN ACTION TO FORECLOSE THE MORTGAGE/DEED OF TRUST ON THE PROPERTY LOCATED AT (INSERT ADDRESS) HAS BEEN FILED IN THE CIRCUIT COURT FOR (COUNTY).

A FORECLOSURE SALE OF THE PROPERTY MAY OCCUR AT ANY TIME AFTER 45 DAYS FROM THE DATE THAT THIS NOTICE IS SERVED ON YOU.

YOU MAY STOP THE SALE AND REINSTATE YOUR MORTGAGE LOAN BY PAYING ALL AMOUNTS DUE ON YOUR LOAN, PLUS FEES AND COSTS OF THE FORECLOSURE ACTION, AT ANY TIME UP TO ONE BUSINESS DAY BEFORE THE SALE. PLEASE CONTACT (INSERT NAME OF AUTHORIZED AGENT OF SECURED PARTY) AT (INSERT TELEPHONE NUMBER) TO OBTAIN THE AMOUNT DUE TO CURE THE DEFAULT ON YOUR MORTGAGE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.

YOU ARE URGED TO OBTAIN LEGAL ADVICE TO DISCUSS OTHER OPTIONS TO STOP THE FORECLOSURE SALE, WHICH MAY INCLUDE FILING A MOTION FOR INJUNCTION WITH THE CIRCUIT COURT OR A PETITION FOR BANKRUPTCY IN FEDERAL BANKRUPTCY COURT. A MOTION FOR INJUNCTION OR A BANKRUPTCY PETITION MUST BE FILED BEFORE THE FORECLOSURE SALE OCCURS.

IF YOU ARE INTERESTED IN SELLING YOUR HOME TO AVOID A FORECLOSURE SALE, YOU MAY WISH TO CONTACT A LICENSED REAL ESTATE BROKER OR SALESPERSON AS SOON AS POSSIBLE.

HOUSING COUNSELING AND FINANCIAL ASSISTANCE PROGRAMS ARE AVAILABLE THROUGH THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT. PLEASE CALL ~~1-877-462-7555~~ (INSERT TELEPHONE NUMBER) FOR INFORMATION ON AVAILABLE RESOURCES.

SOME PEOPLE MAY APPROACH YOU ABOUT "SAVING" YOUR HOME. YOU SHOULD BE CAREFUL ABOUT ANY SUCH PROMISES.

THE STATE ENCOURAGES YOU TO BECOME INFORMED ABOUT YOUR OPTIONS IN FORECLOSURE BEFORE ENTERING INTO ANY AGREEMENTS WITH ANYONE IN CONNECTION WITH THE FORECLOSURE OF YOUR HOME. THERE ARE GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT YOU MAY CONTACT FOR HELPFUL INFORMATION ABOUT THE FORECLOSURE PROCESS. FOR THE NAME AND TELEPHONE NUMBER OF AN ORGANIZATION NEAR YOU, PLEASE CALL THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL OF MARYLAND AT ~~1-888-743-0023~~ (INSERT TELEPHONE

NUMBER). THE STATE DOES NOT GUARANTEE THE ADVICE OF THESE ORGANIZATIONS.

DO NOT DELAY DEALING WITH THE FORECLOSURE BECAUSE YOUR OPTIONS WILL BECOME MORE LIMITED AS TIME PASSES.".

(E) (1) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE ON RESIDENTIAL PROPERTY AND ALL OTHER PAPERS FILED WITH IT SHALL BE SERVED BY:

(I) PERSONAL DELIVERY OF THE PAPERS TO THE MORTGAGOR OR GRANTOR; OR

(II) LEAVING THE PAPERS WITH A RESIDENT OF SUITABLE AGE AND DISCRETION AT THE MORTGAGOR'S OR GRANTOR'S DWELLING HOUSE OR USUAL PLACE OF ABODE.

(2) IF AT LEAST TWO GOOD FAITH EFFORTS TO SERVE THE MORTGAGOR OR GRANTOR UNDER SUBSECTION (E)(1) OF THIS SECTION ON DIFFERENT DAYS HAVE NOT SUCCEEDED, THE PLAINTIFF MAY *EFFECT SERVICE BY*:

(I) ~~FILE~~ *FILING* AN AFFIDAVIT WITH THE COURT DESCRIBING THE GOOD FAITH EFFORTS TO SERVE THE MORTGAGOR OR GRANTOR; AND

(II) 1. ~~MAIL~~ *MAILING* A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST–CLASS MAIL TO THE MORTGAGOR'S OR GRANTOR'S LAST KNOWN ADDRESS AND, IF DIFFERENT, TO THE ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST; AND

2. ~~POST~~ *POSTING* A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST.

(3) THE INDIVIDUAL MAKING SERVICE OF PROCESS UNDER THIS SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE WITH THE MARYLAND RULES.

(F) A FORECLOSURE SALE OF RESIDENTIAL PROPERTY MAY NOT OCCUR UNTIL AT LEAST 45 DAYS AFTER SERVICE OF PROCESS IS MADE UNDER SUBSECTION (E) OF THIS SECTION.

(G) NOTICE OF THE TIME, PLACE, AND TERMS OF A FORECLOSURE SALE SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE ACTION IS PENDING AT LEAST ONCE~~, NOT LESS THAN 10 DAYS BEFORE THE SALE~~ A WEEK FOR 3 SUCCESSIVE WEEKS, THE FIRST PUBLICATION TO BE NOT LESS THAN 15 DAYS BEFORE THE SALE AND THE LAST PUBLICATION TO BE NOT MORE THAN 1 WEEK BEFORE THE SALE.

(H) (1) THE MORTGAGOR OR GRANTOR HAS THE RIGHT TO CURE THE DEFAULT BY PAYING ALL PAST DUE PAYMENTS, PENALTIES, AND FEES AND REINSTATE THE LOAN AT ANY TIME UP TO 1 BUSINESS DAY BEFORE THE FORECLOSURE SALE OCCURS.

(2) THE SECURED PARTY OR AN AUTHORIZED AGENT OF THE SECURED PARTY SHALL, ON REQUEST, PROVIDE TO THE MORTGAGOR OR GRANTOR OR THE MORTGAGOR'S OR GRANTOR'S ATTORNEY WITHIN A REASONABLE TIME THE AMOUNT NECESSARY TO CURE THE DEFAULT AND REINSTATE THE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.

(I) AN ACTION FOR FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL BE BROUGHT WITHIN 3 YEARS AFTER THE DATE OF THE ORDER RATIFYING THE SALE.

7–105.2.

[(b) (1) (i)**] (A)** In this **[**subsection**]** **SECTION**, "record owner" means the person holding record title to property as of the later of:

[1.**] (1)** 30 days before the day on which a foreclosure sale of the property is actually held; and

[2.**] (2)** The date on which an action to foreclose the mortgage or deed of trust is filed.

[(ii)**] (B)** In addition to any notice required to be given by provisions of the Annotated Code of Maryland or the Maryland Rules, the person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of the proposed sale to the record owner of the property to be sold.

[(2) (i)**] (C) (1)** The written notice shall be sent:

[1.**] (I)** By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service, to the record owner; and

[2.**] (II)** By first–class mail.

[(ii)**] (2)** The notice shall state the time, place, and terms of the sale and shall be sent not earlier than 30 days and not later than 10 days before the date of sale.

[(iii)**] (3)** The person giving the notice shall file in the proceedings:

[1.**] (I)** A return receipt; or

[2.**] (II)** An affidavit that:

[A.**] 1.** The provisions of this **[**paragraph**]** **SUBSECTION** have been complied with; or

[B.**] 2.** The address of the record owner is not reasonably ascertainable.

[(iv)**] (4)** The person authorized to make a sale in an action to foreclose a mortgage or deed of trust is not required to give notice to a record owner whose address is not reasonably ascertainable.

[(3)**] (D)** In the event of postponement of sale, which may be done in the discretion of the trustee, no new or additional notice need be given pursuant to this section.

[(4)**] (E)** The right of a record owner to file an action for the failure of the person authorized to make a sale in an action to foreclose a mortgage or deed of trust to comply with the provisions of this **[**subsection**]** **SECTION** shall expire 3 years after the date of the order ratifying the foreclosure sale.

7–105.3.

[(c) (1)**] (A)** In this **[**subsection**]** **SECTION**, "holder of a subordinate interest" includes any condominium council of unit owners or homeowners association

that has filed a request for notice of sale under **[**paragraph (3) of this**]** subsection **(C) OF THIS SECTION**.

[(2)**] (B)** The person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of any proposed foreclosure sale to the holder of any subordinate mortgage, deed of trust, or other subordinate interest, including a judgment, in accordance with **[**subsection (b) of this section**] § 7–105.2 OF THIS SUBTITLE** and the requirements of Maryland Rule 14–206.

[(3) (i)**] (C) (1)** The land records office of each county shall maintain a current listing of recorded requests for notice of sale by holders of subordinate mortgages, deeds of trust, or other subordinate interests.

(2) The holder of a subordinate mortgage, deed of trust, or other subordinate interest may file a request for notice under this **[**paragraph**] SUBSECTION**.

[(ii)**] (3)** Each request for notice of sale shall:

[1.**] (I)** Be recorded in a separate docket or book which shall be indexed under the name of the holder of the superior mortgage or deed of trust and under the book and page numbers where the superior mortgage or deed of trust is recorded;

[2.**] (II)** Identify the property in which the subordinate interest is held;

[3.**] (III)** State the name and address of the holder of the subordinate interest; and

[4.**] (IV)** Identify the superior mortgage or deed of trust by stating:

[A.**] 1.** The names of the original parties to the superior mortgage or deed of trust;

[B.**] 2.** The date the superior mortgage or deed of trust was recorded; and

[C.**] 3.** The office, docket or book, and page where the superior mortgage or deed of trust is recorded.

[(iii) 1.**] (4) (I)** Except as provided in **[**sub–subparagraph 2 of this**]** subparagraph **(II) OF THIS PARAGRAPH**, failure of a holder of a subordinate mortgage, deed of trust, or other subordinate interest to record a request for notice under this **[**paragraph**]** **SUBSECTION** does not affect the duty of a holder of a superior interest to provide notice as required under this **[**subsection**]** **SECTION**.

[2.**] (II)** A holder of a superior interest does not have a duty to provide notice to a condominium council of unit owners or homeowners association that has not filed a request for notice under this **[**paragraph**]** **SUBSECTION**.

[(4)**] (D)** The person giving notice under this **[**subsection**]** **SECTION** shall file in the action:

[(i)**] (1)** The return receipt from the notice; or

[(ii)**] (2)** An affidavit that:

[1.**] (I)** The notice provisions of this **[**subsection**]** **SECTION** have been complied with; or

[2.**] (II)** The address of the holder of the subordinate interest is not reasonably ascertainable.

[(5)**] (E)** The person authorized to make a sale in an action to foreclose a mortgage or deed of trust is not required to give notice to the holder of a subordinate mortgage, deed of trust, or other subordinate interest if:

[(i)**] (1)** The existence of the mortgage, deed of trust, or other subordinate interest is not reasonably ascertainable;

[(ii)**] (2)** The identity or address of the holder of the mortgage, deed of trust, or other subordinate interest is not reasonably ascertainable;

[(iii)**] (3)** With respect to a recorded or filed subordinate mortgage, deed of trust, or other recorded or filed subordinate interest, the recordation or filing occurred after the later of:

[1.**] (I)** 30 days before the day on which the foreclosure sale was actually held; and

[2.**] (II)** The date the action to foreclose the mortgage or deed of trust was filed;

[(iv)**] (4)** With respect to an unrecorded or unfiled subordinate mortgage, deed of trust, or other unrecorded or unfiled subordinate interest, the subordinate interest was created after the later of:

[1.**] (I)** 30 days before the day on which the foreclosure sale was actually held; and

[2.**] (II)** The date the action to foreclose the mortgage or deed of trust was filed; or

[(v)**] (5)** With respect to a condominium council of unit owners or homeowners association, the condominium council of unit owners or homeowners association has not filed a request for notice under **[**paragraph (3) of this**]** subsection **(C) OF THIS SECTION**.

[(6)**] (F)** The right of a holder of a subordinate mortgage, deed of trust, or other subordinate interest to file an action for the failure of the person authorized to make a sale in an action to foreclose a mortgage or deed of trust to comply with the provisions of this **[**subsection**] SECTION** shall expire 3 years after the date of the order ratifying the foreclosure sale.

7–105.4.

[(d) (1)**] (A)** Absent a provision to the contrary in a mortgage or note secured by a deed of trust, in the enumerated counties, the interest provided in a mortgage or note secured by a deed of trust is payable for the time period provided in **[**paragraph (2) of this**]** subsection **(B) OF THIS SECTION** or until the audit of the sale is ratified, whichever occurs first.

[(2)**] (B)** Under **[**paragraph (1) of this**]** subsection **(A) OF THIS SECTION**, the time period following sale is:

[(i)**] (1)** 60 days in Calvert, Cecil, Frederick, Kent, Queen Anne's, Talbot, Caroline, Charles, and St. Mary's counties; and

[(ii)**] (2)** 180 days in Worcester County.

7–105.5.

[(e)**]** No title to property acquired at sale of property subject to a mortgage or deed of trust is invalid by reason of the fact that the property was purchased by the secured party, his assignee, or representative, or for his account.

7–105.6.

[(f) (1)**] (A)** Any purchaser at a foreclosure sale of a mortgage or deed of trust has the same rights and remedies against the tenants of the mortgagor or grantor as the mortgagor or grantor had, and the tenants have the same rights and remedies against the purchaser as they would have had against the mortgagor or grantor on the date the mortgage or deed of trust was recorded.

[(2)**] (B) (1)** If the required advertisement of sale so discloses, a foreclosure sale shall be made subject to one or more of the tenancies entered into subsequent to the recording of the mortgage or deed of trust or otherwise subordinated thereto.

(2) Any lease so continuing is unaffected by the sale, except the purchaser shall become the landlord, as of the date of the sale, on ratification of the sale.

7–105.7.

[(g) (1)**] (A)** Except as provided in this **[**subsection**] SECTION**, unless the mortgage or deed of trust provides otherwise, if any property is encumbered by a mortgage or deed of trust, annual crops planted or cultivated by any debtor or those claiming under him do not pass with the property at any sale under or by virtue of the mortgage or deed of trust, but the crops remain the property of the debtor or those claiming under him.

[(2)**] (B) (1)** Notwithstanding the provisions of **[**paragraph (1) of this**]** subsection **(A) OF THIS SECTION**, after the sale, the debtor or those claiming under him and the purchaser or those claiming under him may agree on a reasonable rental of the part of the property occupied by the crops.

(2) This rental is a lien on the crops and continues until paid in favor of the purchaser or those claiming under him, and neither the crops nor any part of them may be removed until after payment.

(3) If the parties are unable to agree on the rental, any party in interest may apply to the court having jurisdiction over the sale or the confirmation of it for the appointment of disinterested appraisers to determine the rental, whose award shall be final.

[(3)**] (C) (1)** In addition to any other remedy, the purchaser or those claiming under him, on ascertainment of the rent, may distrain for the rent or any part of it remaining due, as in the case of landlord and tenant.

(2) No provision of this section is intended to interfere with the right of the purchaser or those claiming under him to have possession of the property, except as to the part occupied by the crop, with necessary ingress or egress.

7–105.8.

[(h)**]** The entry of an order for resale on default by a purchaser at a sale under **[**this section**]** **§§ 7–105 THROUGH 7–105.7 OF THIS SUBTITLE** and Title 14 of the Maryland Rules:

(1) Does not affect the prior ratification of the sale and does not restore to the mortgagor or former record owner any right or remedy that was extinguished by the prior sale and its ratification; and

(2) Extinguishes all interest of the defaulting purchaser in the real property being foreclosed and in the proceeds of the resale.

SECTION 2. AND BE IT FURTHER ENACTED, That § 3–104.1 of the Real Property Article, as enacted by Section 1 of 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 mortgage, deed of trust, or other instrument recorded before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That § 7–105.1 of the Real Property Article, as enacted by Section 1 of 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 foreclosure action filed before the effective date of this Act.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.~~

SECTION 4. AND BE IT FURTHER ENACTED, That, until the Commissioner of Financial Regulation adopts regulations under § 3–104.1(c) of the Real Property Article, as enacted by Section 1 of this Act, the failure to include the information required in § 3–104.1(b) of the Real Property Article, as enacted by Section 1 of this Act, when recording a mortgage, deed of trust, or any other instrument securing a mortgage loan may not be the basis for a clerk of the court to fail to record the instrument.

SECTION 5. AND BE IT FURTHER ENACTED, That, until the Commissioner of Financial Regulation adopts regulations under § 7–105.1(c)(4)(i) and (ii)4 of the Real Property Article, as enacted by Section 1 of this Act, a notice of intent to foreclose shall be construed to be sufficient if the notice contains the information required under §

7–105.1(c)(4)(ii)1 through 3 of the Real Property Article, as enacted by Section 1 of this Act.

SECTION ~~4.~~ *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 3, 2008.

CHAPTER 3

(Senate Bill 217)

AN ACT concerning

Real Property – Maryland Mortgage Fraud Protection Act

FOR the purpose of prohibiting a person from committing mortgage fraud; authorizing the Attorney General or the Commissioner of Financial Regulation to seek an injunction to prohibit a violation of certain provisions of this Act; authorizing the Attorney General and the State's Attorney to conduct the criminal investigation and prosecution of mortgage fraud under certain provisions of this Act; authorizing a private right of action for a violation of certain provisions of this Act under certain circumstances; imposing certain penalties for a violation of certain provisions of this Act under certain circumstances; providing for the forfeiture of property used in a violation of certain provisions of this Act under certain circumstances; establishing procedures for the forfeiture of certain property; defining certain terms; making this Act an emergency measure; and generally relating to mortgage fraud.

BY adding to
Article – Criminal Procedure
Section 13–401 through 13–408 to be under the new subtitle "Subtitle 4. Violations of the Maryland Mortgage Fraud Protection Act"
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions

Section 11–501(k) ~~and (m)~~
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Real Property
Section 7–401 through 7–409 to be under the new subtitle "Subtitle 4. Maryland Mortgage Fraud Protection Act"
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Criminal Procedure

SUBTITLE 4. VIOLATIONS OF THE MARYLAND MORTGAGE FRAUD PROTECTION ACT.

13–401.

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

(B) "MORTGAGE FRAUD LAW" MEANS THE MARYLAND MORTGAGE FRAUD PROTECTION ACT, TITLE 7, SUBTITLE 4 OF THE REAL PROPERTY ARTICLE.

(C) "FORFEITING AUTHORITY" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(D) "GOVERNING BODY" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(E) "LIENHOLDER" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(F) "OWNER" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(G) "PROCEEDS" INCLUDES PROPERTY DERIVED DIRECTLY OR INDIRECTLY IN CONNECTION WITH OR AS A RESULT OF A VIOLATION OF THE MORTGAGE FRAUD LAW.

(H) (1) "PROPERTY" INCLUDES:

(I) REAL PROPERTY AND ANYTHING GROWING ON OR ATTACHED TO REAL PROPERTY;

(II) PERSONAL PROPERTY; AND

(III) MONEY.

(2) "PROPERTY" DOES NOT INCLUDE A LESSOR'S INTEREST IN PROPERTY SUBJECT TO A BONA FIDE LEASE, UNLESS THE FORFEITING AUTHORITY CAN SHOW THAT:

(I) THE LESSOR PARTICIPATED IN A VIOLATION OF THE MORTGAGE FRAUD LAW; OR

(II) THE PROPERTY WAS THE PROCEEDS OF A VIOLATION OF THE MORTGAGE FRAUD LAW.

(I) "SEIZING AUTHORITY" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

13–402.

THE FOLLOWING PROPERTY IS SUBJECT TO FORFEITURE:

(1) PROPERTY USED OR INTENDED FOR USE IN THE COURSE OF A VIOLATION OF THE MORTGAGE FRAUD LAW;

(2) PROPERTY DERIVED FROM OR REALIZED THROUGH A VIOLATION OF THE MORTGAGE FRAUD LAW; AND

(3) PROCEEDS OF PROPERTY DESCRIBED IN ITEM (1) OR (2) OF THIS SECTION.

13–403.

(A) PROPERTY OR AN INTEREST IN PROPERTY MAY NOT BE FORFEITED IF THE OWNER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE VIOLATION OF THE MORTGAGE FRAUD LAW WAS COMMITTED WITHOUT THE OWNER'S ACTUAL KNOWLEDGE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED UNDER THIS SUBTITLE UNLESS ONE OF THE OWNERS OF THE PROPERTY WAS CONVICTED OF A VIOLATION OF THE MORTGAGE FRAUD LAW.

(2) WITHOUT A CONVICTION, A COURT MAY ORDER A FORFEITURE OF PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IF THE OWNER OF THE FAMILY RESIDENCE:

(I) FAILS TO APPEAR FOR A REQUIRED COURT APPEARANCE; AND

(II) FAILS TO SURRENDER TO THE JURISDICTION OF THE COURT WITHIN 180 DAYS AFTER THE REQUIRED COURT APPEARANCE.

(C) PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE BY A HUSBAND AND WIFE AND HELD BY THE HUSBAND AND WIFE AS TENANTS BY THE ENTIRETY MAY NOT BE FORFEITED UNLESS:

(1) THE PROPERTY WAS USED IN CONNECTION WITH:

(I) A VIOLATION OF THE MORTGAGE FRAUD LAW; OR

(II) AN ATTEMPT OR CONSPIRACY TO VIOLATE THE MORTGAGE FRAUD LAW; AND

(2) BOTH THE HUSBAND AND WIFE ARE CONVICTED OF:

(I) A VIOLATION OF THE MORTGAGE FRAUD LAW; OR

(II) AN ATTEMPT OR CONSPIRACY TO VIOLATE THE MORTGAGE FRAUD LAW.

13–404.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, PROPERTY SUBJECT TO FORFEITURE UNDER THIS SUBTITLE MAY BE SEIZED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN §§ 12–202, 12–203, AND 12–208 THROUGH 12–211 OF THIS ARTICLE.

(B) THE PROBABLE CAUSE REQUIRED UNDER § 12–202(A)(2)(V) OF THIS ARTICLE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY HAS BEEN

USED OR IS INTENDED TO BE USED IN VIOLATION OF THE MORTGAGE FRAUD LAW.

13–405.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FORFEITURE OF PROPERTY UNDER THIS SUBTITLE SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN §§ 12–301 THROUGH 12–308 OF THIS ARTICLE.

(B) THE ALLEGATION REQUIRED UNDER § 12–305(A)(7) OF THIS ARTICLE REFERS TO THE MORTGAGE FRAUD LAW RATHER THAN THE CONTROLLED DANGEROUS SUBSTANCES LAW.

13–406.

(A) EXCEPT AS PROVIDED IN SUBSECTIONS (E) AND (F) OF THIS SECTION AND § 12–403(C) OF THIS SUBTITLE, AN OWNER'S INTEREST IN REAL PROPERTY MAY BE FORFEITED IF THE REAL PROPERTY WAS USED IN CONNECTION WITH A VIOLATION OF THE MORTGAGE FRAUD LAW.

(B) FORFEITURE PROCEEDINGS FOR REAL PROPERTY MAY BE BROUGHT IN THE JURISDICTION WHERE:

(1) THE CRIMINAL CHARGES ARE PENDING;

(2) THE OWNER RESIDES; OR

(3) THE REAL PROPERTY IS LOCATED.

(C) (1) IF FORFEITURE PROCEEDINGS FOR REAL PROPERTY ARE BROUGHT IN A JURISDICTION OTHER THAN WHERE THE REAL PROPERTY IS LOCATED, A NOTICE OF PENDING LITIGATION SHALL BE FILED IN THE JURISDICTION WHERE THE REAL PROPERTY IS LOCATED.

(2) A NOTICE OF PENDING LITIGATION REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE AT LEAST:

(I) THE NAME AND ADDRESS OF THE OWNER OF THE REAL PROPERTY;

(II) A DESCRIPTION OF THE REAL PROPERTY; AND

(III) A DESCRIPTION OF THE REASONS FOR THE FILING OF THE FORFEITURE PROCEEDINGS AND NOTICE OF PENDING LITIGATION.

(D) IF AN OWNER OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IS CONVICTED UNDER THE MORTGAGE FRAUD LAW AND THE OWNER FILES AN APPEAL OF THE CONVICTION, THE COURT SHALL STAY FORFEITURE PROCEEDINGS UNDER § 12–403(C) OF THIS ARTICLE OR SUBSECTION (F) OF THIS SECTION AGAINST THE REAL PROPERTY DURING THE PENDENCY OF THE APPEAL.

(E) (1) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THERE IS A REBUTTABLE PRESUMPTION THAT PROPERTY OR PART OF A PROPERTY IN WHICH A PERSON HAS AN OWNERSHIP INTEREST IS SUBJECT TO FORFEITURE AS PROCEEDS, IF THE STATE ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT:

(I) THE PERSON HAS VIOLATED THE MORTGAGE FRAUD LAW;

(II) THE PROPERTY WAS ACQUIRED BY THE PERSON DURING THE VIOLATION OR WITHIN A REASONABLE TIME AFTER THE VIOLATION; AND

(III) THERE WAS NO OTHER LIKELY SOURCE FOR THE PROPERTY.

(2) A CLAIMANT OF THE PROPERTY HAS THE BURDEN OF PROOF TO REBUT THE PRESUMPTION ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(F) REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED UNDER SUBSECTION (E) OF THIS SECTION UNLESS:

(1) AN OWNER OF THE REAL PROPERTY WAS CONVICTED UNDER SUBSECTION (E)(1) OF THIS SECTION; OR

(2) THE REAL PROPERTY IS COVERED BY § 13–403(B)(2) OF THIS SUBTITLE.

13–407.

(A) EXCEPT AS PROVIDED IN THIS SECTION, DISPOSITION OF PROPERTY AFTER FORFEITURE UNDER THIS SUBTITLE SHALL BE SUBJECT TO §§ 12–401, 12–402, AND 12–404 OF THIS ARTICLE.

(B) THE COURT DETERMINATION UNDER § 12–402(C) OF THIS ARTICLE SHALL INCLUDE THAT THE PROPERTY WAS BEING USED OR WAS TO BE USED IN VIOLATION OF THE MORTGAGE FRAUD LAW RATHER THAN THE CONTROLLED DANGEROUS SUBSTANCES LAW.

(C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "IDENTIFIABLE LOSSES" INCLUDE:

1. EXPENSES NECESSARY TO:

A. DISCOVER THE EXTENT OF A VIOLATION OF THE MORTGAGE FRAUD LAW;

B. REPAIR DAMAGES RESULTING FROM A VIOLATION OF THE MORTGAGE FRAUD LAW, INCLUDING REPAIRING CREDIT RATINGS AND CORRECTING ERRORS IN CONSUMER REPORTS; AND

C. PREVENT FURTHER DAMAGES RESULTING FROM A VIOLATION OF THE MORTGAGE FRAUD LAW; AND

2. LOST WAGES RESULTING FROM TIME AWAY FROM WORK IN ORDER TO RECTIFY ANY FRAUD CAUSED BY A VIOLATION OF THE MORTGAGE FRAUD LAW.

(II) "VICTIM" INCLUDES A BUSINESS THAT LOSES ANY THING OF VALUE AS A RESULT OF A VIOLATION OF THE MORTGAGE FRAUD LAW.

(2) DISPOSITION OF FORFEITED PROPERTY UNDER THIS SUBTITLE SHALL FOLLOW THE PROCEDURES IN THIS SUBSECTION.

(3) WHENEVER PROPERTY IS FORFEITED UNDER THIS SUBTITLE, THE GOVERNING BODY WHERE THE PROPERTY WAS SEIZED SHALL SELL THE PROPERTY AT PUBLIC AUCTION.

(4) THE PROCEEDS OF A SALE UNDER THIS SUBSECTION SHALL BE DISTRIBUTED AS FOLLOWS:

(I) FIRST, TO PAY ALL PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF CUSTODY, ADVERTISING, AND COURT COSTS;

(II) SECOND, FOR RESTITUTION AS ORDERED BY THE COURT TO VICTIMS TO PAY FOR IDENTIFIABLE LOSSES RESULTING FROM THE VIOLATION OF THE MORTGAGE FRAUD LAW; AND

(III) FINALLY, TO THE GENERAL FUND OF THE STATE.

13–408.

LIENHOLDERS OF PROPERTY SEIZED UNDER THIS SUBTITLE SHALL HAVE THE RIGHTS AND OBLIGATIONS SET FORTH IN TITLE 12, SUBTITLE 5 OF THIS ARTICLE.

Article – Financial Institutions

11–501.

(k) (1) "Mortgage loan" means any loan or other extension of credit that is:

(i) Secured, in whole or in part, by any interest in residential real property in Maryland; and

(ii) 1. If for personal, household, or family purposes, in any amount; or

2. If for commercial purposes, not in excess of $75,000.

(2) "Mortgage loan" does not include any loan for commercial purposes that is:

(i) Secured, in whole or in part, by any interest in residential real property in Maryland;

(ii) In excess of $75,000; and

(iii) Supported by independent evidence of the commercial purpose.

~~(m) "Residential real property" means any owner–occupied real property located in Maryland, which property has a dwelling on it designed principally as a residence with accommodations for not more than 4 families, but does not include any real property held primarily for rental, investment, or the generation of income through any commercial or industrial enterprise.~~

Article – Real Property

SUBTITLE 4. MARYLAND MORTGAGE FRAUD PROTECTION ACT.

7–401.

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

(B) "DOCUMENT" INCLUDES APPLICATIONS, APPRAISAL REPORTS, HUD–1 SETTLEMENT STATEMENTS, W–2 FORMS, VERIFICATIONS OF INCOME OR EMPLOYMENT, BANK STATEMENTS, TAX RETURNS, PAYROLL STUBS, AND ANY REQUIRED DISCLOSURE.

(C) "HOMEOWNER" MEANS:

(1) A RECORD OWNER OF RESIDENTIAL REAL PROPERTY; OR

(2) AN INDIVIDUAL OCCUPYING THE RESIDENTIAL REAL PROPERTY UNDER A USE AND POSSESSION ORDER ISSUED UNDER TITLE 8, SUBTITLE 2 OF THE FAMILY LAW ARTICLE.

(D) "MORTGAGE FRAUD" MEANS ANY ACTION BY A PERSON MADE WITH THE INTENT TO DEFRAUD THAT INVOLVES:

(1) KNOWINGLY MAKING ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION DURING THE MORTGAGE LENDING PROCESS WITH THE INTENT THAT THE MISSTATEMENT, MISREPRESENTATION, OR OMISSION BE RELIED ON BY A MORTGAGE LENDER, BORROWER, OR ANY OTHER PARTY TO THE MORTGAGE LENDING PROCESS;

(2) KNOWINGLY USING OR FACILITATING THE USE OF ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION DURING THE

MORTGAGE LENDING PROCESS WITH THE INTENT THAT THE MISSTATEMENT, MISREPRESENTATION, OR OMISSION BE RELIED ON BY A MORTGAGE LENDER, BORROWER, OR ANY OTHER PARTY TO THE MORTGAGE LENDING PROCESS;

(3) RECEIVING ANY PROCEEDS OR ANY OTHER FUNDS IN CONNECTION WITH A MORTGAGE CLOSING THAT THE PERSON KNOWS RESULTED FROM A VIOLATION OF ITEM (1) OR (2) OF THIS SECTION;

(4) CONSPIRING TO VIOLATE ANY OF THE PROVISIONS OF ITEM (1), (2), OR (3) OF THIS SECTION; OR

(5) FILING OR CAUSING TO BE FILED IN THE LAND RECORDS IN THE COUNTY WHERE A RESIDENTIAL REAL PROPERTY IS LOCATED, ANY DOCUMENT <u>RELATING TO A MORTGAGE LOAN THAT</u> THE PERSON KNOWS TO CONTAIN A DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION.

(E) (1) "MORTGAGE LENDING PROCESS" MEANS THE PROCESS BY WHICH A PERSON SEEKS OR OBTAINS A MORTGAGE LOAN.

(2) "MORTGAGE LENDING PROCESS" INCLUDES:

(I) THE SOLICITATION, APPLICATION, ORIGINATION, NEGOTIATION, SERVICING, UNDERWRITING, SIGNING, CLOSING, AND FUNDING OF A MORTGAGE LOAN; AND

(II) THE NOTARIZING OF ANY DOCUMENT IN CONNECTION WITH A MORTGAGE LOAN.

(F) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(G) "PATTERN OF MORTGAGE FRAUD" MEANS TWO OR MORE INCIDENTS OF MORTGAGE FRAUD THAT:

(1) INVOLVE TWO OR MORE RESIDENTIAL REAL PROPERTIES; AND

(2) HAVE SIMILAR INTENTS, RESULTS, ACCOMPLICES, VICTIMS, OR METHODS OF COMMISSION OR OTHERWISE ARE INTERRELATED BY DISTINGUISHING CHARACTERISTICS.

(H) "RESIDENTIAL REAL PROPERTY" ~~HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE~~ MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

7–402.

A PERSON MAY NOT COMMIT MORTGAGE FRAUD.

7–403.

FOR THE PURPOSE OF VENUE UNDER THIS SUBTITLE, A VIOLATION OF THIS SUBTITLE SHALL BE CONSIDERED TO HAVE BEEN COMMITTED:

(1) IN THE COUNTY IN WHICH THE RESIDENTIAL REAL PROPERTY IS LOCATED FOR WHICH A MORTGAGE LOAN IS BEING SOUGHT;

(2) IN THE COUNTY IN WHICH AN ACT WAS PERFORMED IN FURTHERANCE OF THE VIOLATION;

(3) IN THE COUNTY IN WHICH A PERSON ALLEGED TO HAVE VIOLATED THIS SUBTITLE HAD CONTROL OR POSSESSION OF ANY PROCEEDS OF THE VIOLATION;

(4) IF A CLOSING OCCURRED, IN THE COUNTY IN WHICH THE CLOSING OCCURRED; AND

(5) IN THE COUNTY IN WHICH A DOCUMENT CONTAINING A DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION IS FILED IN THE LAND RECORDS.

7–404.

(A) THE ATTORNEY GENERAL OR THE COMMISSIONER OF FINANCIAL REGULATION MAY SEEK AN INJUNCTION TO PROHIBIT A PERSON WHO HAS ENGAGED OR IS ENGAGING IN A VIOLATION OF THIS SUBTITLE FROM ENGAGING OR CONTINUING TO ENGAGE IN THE VIOLATION.

(B) THE COURT MAY ENTER ANY ORDER OR JUDGMENT NECESSARY TO:

(1) PREVENT THE USE BY A PERSON OF ANY PROHIBITED PRACTICE;

(2) RESTORE TO A PERSON ANY MONEY OR REAL OR PERSONAL PROPERTY ACQUIRED FROM THE PERSON BY MEANS OF ANY PROHIBITED PRACTICE; OR

(3) APPOINT A RECEIVER IN THE CASE OF A WILLFUL VIOLATION OF THIS SUBTITLE.

(C) IN ANY ACTION BROUGHT BY THE ATTORNEY GENERAL OR COMMISSIONER UNDER THIS SECTION, THE ATTORNEY GENERAL OR COMMISSIONER IS ENTITLED TO RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE STATE.

7–405.

(A) THE ATTORNEY GENERAL AND THE STATE'S ATTORNEY ARE AUTHORIZED TO CONDUCT THE CRIMINAL INVESTIGATION AND PROSECUTION OF ALL CASES OF MORTGAGE FRAUD UNDER THIS SUBTITLE.

(B) THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY, AS APPROPRIATE, SHALL PROMPTLY REPORT A CONVICTION UNDER THIS SUBTITLE TO THE UNIT OF STATE GOVERNMENT THAT HAS REGULATORY JURISDICTION OVER THE BUSINESS ACTIVITIES OF THE PERSON CONVICTED.

7–406.

(A) IN ADDITION TO ANY ACTION AUTHORIZED UNDER THIS SUBTITLE AND ANY OTHER ACTION OTHERWISE AUTHORIZED BY LAW, A PERSON MAY BRING AN ACTION FOR DAMAGES INCURRED AS THE RESULT OF A VIOLATION OF THIS SUBTITLE.

(B) A PERSON WHO BRINGS AN ACTION UNDER THIS SECTION AND WHO IS AWARDED DAMAGES MAY ALSO SEEK, AND THE COURT MAY AWARD, REASONABLE ATTORNEY'S FEES.

(C) IF THE COURT FINDS THAT THE DEFENDANT VIOLATED THIS SUBTITLE, THE COURT MAY AWARD DAMAGES EQUAL TO THREE TIMES THE AMOUNT OF ACTUAL DAMAGES.

7–407.

(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $5,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

(B) IF A VIOLATION INVOLVES A VICTIM WHO IS A VULNERABLE ADULT AS DEFINED UNDER § 3–604(A) OF THE CRIMINAL LAW ARTICLE, A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $15,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS OR BOTH.

(C) IF A VIOLATION INVOLVES ENGAGING OR PARTICIPATING IN A PATTERN OF MORTGAGE FRAUD OR A CONSPIRACY OR ENDEAVOR TO ENGAGE OR PARTICIPATE IN A PATTERN OF MORTGAGE FRAUD, A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $100,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH.

(D) (1) A PERSON CONVICTED OF VIOLATING THIS SUBTITLE SHALL PAY RESTITUTION TO ANY PERSON DAMAGED BY THE VIOLATION.

(2) RESTITUTION SHALL BE ORDERED IN ADDITION TO A FINE OR IMPRISONMENT OR BOTH.

(E) EACH RESIDENTIAL REAL PROPERTY TRANSACTION SUBJECT TO A VIOLATION OF THIS SUBTITLE CONSTITUTES A SEPARATE OFFENSE, AND SHALL NOT MERGE WITH ANY OTHER CRIMES SET FORTH IN THE CRIMINAL LAW ARTICLE.

(F) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO § 5–106(B) OF THE COURTS ARTICLE.

7–408.

(A) ALL REAL AND PERSONAL PROPERTY USED OR INTENDED FOR USE IN THE COURSE OF, DERIVED FROM, OR REALIZED THROUGH A VIOLATION OF THIS SUBTITLE SHALL BE SUBJECT TO FORFEITURE TO THE STATE.

(B) THE ATTORNEY GENERAL AND THE STATE'S ATTORNEY ARE AUTHORIZED TO COMMENCE FORFEITURE PROCEEDINGS UNDER THIS SUBTITLE.

(C) THE FORFEITURE OF PROPERTY UNDER THIS SUBTITLE SHALL BE SUBJECT TO TITLE 13, SUBTITLE 4 OF THE CRIMINAL PROCEDURE ARTICLE.

7–409.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND MORTGAGE FRAUD PROTECTION ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect June 1, 2008~~ 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 3, 2008.

CHAPTER 4

(House Bill 360)

AN ACT concerning

Real Property – Maryland Mortgage Fraud Protection Act

FOR the purpose of prohibiting a person from committing mortgage fraud; authorizing the Attorney General or the Commissioner of Financial Regulation to seek an injunction to prohibit a violation of certain provisions of this Act; authorizing the Attorney General and the State's Attorney to conduct the criminal investigation and prosecution of mortgage fraud under certain provisions of this Act; authorizing a private right of action for a violation of certain provisions of this Act under certain circumstances; imposing certain penalties for a violation of certain provisions of this Act under certain circumstances; providing for the forfeiture of property used in a violation of certain provisions of this Act under certain circumstances; establishing procedures for the forfeiture of certain property; defining certain terms; making this Act an emergency measure; and generally relating to mortgage fraud.

BY adding to
Article – Criminal Procedure

Section 13–401 through 13–408 to be under the new subtitle "Subtitle 4. Violations of the Maryland Mortgage Fraud Protection Act"
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 11–501(k) ~~and (m)~~
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(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Real Property
Section 7–401 through 7–409 to be under the new subtitle "Subtitle 4. Maryland Mortgage Fraud Protection Act"
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Criminal Procedure

SUBTITLE 4. VIOLATIONS OF THE MARYLAND MORTGAGE FRAUD PROTECTION ACT.

13–401.

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

(B) "MORTGAGE FRAUD LAW" MEANS THE MARYLAND MORTGAGE FRAUD PROTECTION ACT, TITLE 7, SUBTITLE 4 OF THE REAL PROPERTY ARTICLE.

(C) "FORFEITING AUTHORITY" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(D) "GOVERNING BODY" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(E) "LIENHOLDER" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(F) "OWNER" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(G) "PROCEEDS" INCLUDES PROPERTY DERIVED DIRECTLY OR INDIRECTLY IN CONNECTION WITH OR AS A RESULT OF A VIOLATION OF THE MORTGAGE FRAUD LAW.

(H) (1) "PROPERTY" INCLUDES:

(I) REAL PROPERTY AND ANYTHING GROWING ON OR ATTACHED TO REAL PROPERTY;

(II) PERSONAL PROPERTY; AND

(III) MONEY.

(2) "PROPERTY" DOES NOT INCLUDE A LESSOR'S INTEREST IN PROPERTY SUBJECT TO A BONA FIDE LEASE, UNLESS THE FORFEITING AUTHORITY CAN SHOW THAT:

(I) THE LESSOR PARTICIPATED IN A VIOLATION OF THE MORTGAGE FRAUD LAW; OR

(II) THE PROPERTY WAS THE PROCEEDS OF A VIOLATION OF THE MORTGAGE FRAUD LAW.

(I) "SEIZING AUTHORITY" HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

13–402.

THE FOLLOWING PROPERTY IS SUBJECT TO FORFEITURE:

(1) PROPERTY USED OR INTENDED FOR USE IN THE COURSE OF A VIOLATION OF THE MORTGAGE FRAUD LAW;

(2) PROPERTY DERIVED FROM OR REALIZED THROUGH A VIOLATION OF THE MORTGAGE FRAUD LAW; AND

(3) PROCEEDS OF PROPERTY DESCRIBED IN ITEM (1) OR (2) OF THIS SECTION.

13–403.

(A) PROPERTY OR AN INTEREST IN PROPERTY MAY NOT BE FORFEITED IF THE OWNER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE VIOLATION OF THE MORTGAGE FRAUD LAW WAS COMMITTED WITHOUT THE OWNER'S ACTUAL KNOWLEDGE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED UNDER THIS SUBTITLE UNLESS ONE OF THE OWNERS OF THE PROPERTY WAS CONVICTED OF A VIOLATION OF THE MORTGAGE FRAUD LAW.

(2) WITHOUT A CONVICTION, A COURT MAY ORDER A FORFEITURE OF PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IF THE OWNER OF THE FAMILY RESIDENCE:

(I) FAILS TO APPEAR FOR A REQUIRED COURT APPEARANCE; AND

(II) FAILS TO SURRENDER TO THE JURISDICTION OF THE COURT WITHIN 180 DAYS AFTER THE REQUIRED COURT APPEARANCE.

(C) PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE BY A HUSBAND AND WIFE AND HELD BY THE HUSBAND AND WIFE AS TENANTS BY THE ENTIRETY MAY NOT BE FORFEITED UNLESS:

(1) THE PROPERTY WAS USED IN CONNECTION WITH:

(I) A VIOLATION OF THE MORTGAGE FRAUD LAW; OR

(II) AN ATTEMPT OR CONSPIRACY TO VIOLATE THE MORTGAGE FRAUD LAW; AND

(2) BOTH THE HUSBAND AND WIFE ARE CONVICTED OF:

(I) A VIOLATION OF THE MORTGAGE FRAUD LAW; OR

(II) AN ATTEMPT OR CONSPIRACY TO VIOLATE THE MORTGAGE FRAUD LAW.

13–404.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, PROPERTY SUBJECT TO FORFEITURE UNDER THIS SUBTITLE MAY BE SEIZED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN §§ 12–202, 12–203, AND 12–208 THROUGH 12–211 OF THIS ARTICLE.

(B) THE PROBABLE CAUSE REQUIRED UNDER § 12–202(A)(2)(V) OF THIS ARTICLE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THE MORTGAGE FRAUD LAW.

13–405.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FORFEITURE OF PROPERTY UNDER THIS SUBTITLE SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN §§ 12–301 THROUGH 12–308 OF THIS ARTICLE.

(B) THE ALLEGATION REQUIRED UNDER § 12–305(A)(7) OF THIS ARTICLE REFERS TO THE MORTGAGE FRAUD LAW RATHER THAN THE CONTROLLED DANGEROUS SUBSTANCES LAW.

13–406.

(A) EXCEPT AS PROVIDED IN SUBSECTIONS (E) AND (F) OF THIS SECTION AND § 12–403(C) OF THIS SUBTITLE, AN OWNER'S INTEREST IN REAL PROPERTY MAY BE FORFEITED IF THE REAL PROPERTY WAS USED IN CONNECTION WITH A VIOLATION OF THE MORTGAGE FRAUD LAW.

(B) FORFEITURE PROCEEDINGS FOR REAL PROPERTY MAY BE BROUGHT IN THE JURISDICTION WHERE:

(1) THE CRIMINAL CHARGES ARE PENDING;

(2) THE OWNER RESIDES; OR

(3) THE REAL PROPERTY IS LOCATED.

(C) (1) IF FORFEITURE PROCEEDINGS FOR REAL PROPERTY ARE BROUGHT IN A JURISDICTION OTHER THAN WHERE THE REAL PROPERTY IS LOCATED, A NOTICE OF PENDING LITIGATION SHALL BE FILED IN THE JURISDICTION WHERE THE REAL PROPERTY IS LOCATED.

(2) A NOTICE OF PENDING LITIGATION REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE AT LEAST:

(I) THE NAME AND ADDRESS OF THE OWNER OF THE REAL PROPERTY;

(II) A DESCRIPTION OF THE REAL PROPERTY; AND

(III) A DESCRIPTION OF THE REASONS FOR THE FILING OF THE FORFEITURE PROCEEDINGS AND NOTICE OF PENDING LITIGATION.

(D) IF AN OWNER OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IS CONVICTED UNDER THE MORTGAGE FRAUD LAW AND THE OWNER FILES AN APPEAL OF THE CONVICTION, THE COURT SHALL STAY FORFEITURE PROCEEDINGS UNDER § 12–403(C) OF THIS ARTICLE OR SUBSECTION (F) OF THIS SECTION AGAINST THE REAL PROPERTY DURING THE PENDENCY OF THE APPEAL.

(E) (1) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THERE IS A REBUTTABLE PRESUMPTION THAT PROPERTY OR PART OF A PROPERTY IN WHICH A PERSON HAS AN OWNERSHIP INTEREST IS SUBJECT TO FORFEITURE AS PROCEEDS, IF THE STATE ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT:

(I) THE PERSON HAS VIOLATED THE MORTGAGE FRAUD LAW;

(II) THE PROPERTY WAS ACQUIRED BY THE PERSON DURING THE VIOLATION OR WITHIN A REASONABLE TIME AFTER THE VIOLATION; AND

(III) THERE WAS NO OTHER LIKELY SOURCE FOR THE PROPERTY.

(2) A CLAIMANT OF THE PROPERTY HAS THE BURDEN OF PROOF TO REBUT THE PRESUMPTION ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(F) REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED UNDER SUBSECTION (E) OF THIS SECTION UNLESS:

(1) AN OWNER OF THE REAL PROPERTY WAS CONVICTED UNDER SUBSECTION (E)(1) OF THIS SECTION; OR

(2) THE REAL PROPERTY IS COVERED BY § 13–403(B)(2) OF THIS SUBTITLE.

13–407.

(A) EXCEPT AS PROVIDED IN THIS SECTION, DISPOSITION OF PROPERTY AFTER FORFEITURE UNDER THIS SUBTITLE SHALL BE SUBJECT TO §§ 12–401, 12–402, AND 12–404 OF THIS ARTICLE.

(B) THE COURT DETERMINATION UNDER § 12–402(C) OF THIS ARTICLE SHALL INCLUDE THAT THE PROPERTY WAS BEING USED OR WAS TO BE USED IN VIOLATION OF THE MORTGAGE FRAUD LAW RATHER THAN THE CONTROLLED DANGEROUS SUBSTANCES LAW.

(C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "IDENTIFIABLE LOSSES" INCLUDE:

1. EXPENSES NECESSARY TO:

A. DISCOVER THE EXTENT OF A VIOLATION OF THE MORTGAGE FRAUD LAW;

B. REPAIR DAMAGES RESULTING FROM A VIOLATION OF THE MORTGAGE FRAUD LAW, INCLUDING REPAIRING CREDIT RATINGS AND CORRECTING ERRORS IN CONSUMER REPORTS; AND

C. PREVENT FURTHER DAMAGES RESULTING FROM A VIOLATION OF THE MORTGAGE FRAUD LAW; AND

2. LOST WAGES RESULTING FROM TIME AWAY FROM WORK IN ORDER TO RECTIFY ANY FRAUD CAUSED BY A VIOLATION OF THE MORTGAGE FRAUD LAW.

(II) "VICTIM" INCLUDES A BUSINESS THAT LOSES ANY THING OF VALUE AS A RESULT OF A VIOLATION OF THE MORTGAGE FRAUD LAW.

(2) DISPOSITION OF FORFEITED PROPERTY UNDER THIS SUBTITLE SHALL FOLLOW THE PROCEDURES IN THIS SUBSECTION.

(3) WHENEVER PROPERTY IS FORFEITED UNDER THIS SUBTITLE, THE GOVERNING BODY WHERE THE PROPERTY WAS SEIZED SHALL SELL THE PROPERTY AT PUBLIC AUCTION.

(4) THE PROCEEDS OF A SALE UNDER THIS SUBSECTION SHALL BE DISTRIBUTED AS FOLLOWS:

(I) FIRST, TO PAY ALL PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF CUSTODY, ADVERTISING, AND COURT COSTS;

(II) SECOND, FOR RESTITUTION AS ORDERED BY THE COURT TO VICTIMS TO PAY FOR IDENTIFIABLE LOSSES RESULTING FROM THE VIOLATION OF THE MORTGAGE FRAUD LAW; AND

(III) FINALLY, TO THE GENERAL FUND OF THE STATE.

13–408.

LIENHOLDERS OF PROPERTY SEIZED UNDER THIS SUBTITLE SHALL HAVE THE RIGHTS AND OBLIGATIONS SET FORTH IN TITLE 12, SUBTITLE 5 OF THIS ARTICLE.

Article – Financial Institutions

11–501.

(k) (1) "Mortgage loan" means any loan or other extension of credit that is:

(i) Secured, in whole or in part, by any interest in residential real property in Maryland; and

(ii) 1. If for personal, household, or family purposes, in any amount; or

2. If for commercial purposes, not in excess of $75,000.

(2) "Mortgage loan" does not include any loan for commercial purposes that is:

(i) Secured, in whole or in part, by any interest in residential real property in Maryland;

(ii) In excess of $75,000; and

(iii) Supported by independent evidence of the commercial purpose.

~~(m) "Residential real property" means any owner–occupied real property located in Maryland, which property has a dwelling on it designed principally as a residence with accommodations for not more than 4 families, but does not include any real property held primarily for rental, investment, or the generation of income through any commercial or industrial enterprise.~~

Article – Real Property

SUBTITLE 4. MARYLAND MORTGAGE FRAUD PROTECTION ACT.

7–401.

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

(B) "DOCUMENT" INCLUDES APPLICATIONS, APPRAISAL REPORTS, HUD–1 SETTLEMENT STATEMENTS, W–2 FORMS, VERIFICATIONS OF INCOME OR EMPLOYMENT, BANK STATEMENTS, TAX RETURNS, PAYROLL STUBS, AND ANY REQUIRED DISCLOSURE.

(C) "HOMEOWNER" MEANS:

(1) A RECORD OWNER OF RESIDENTIAL REAL PROPERTY; OR

(2) AN INDIVIDUAL OCCUPYING THE RESIDENTIAL REAL PROPERTY UNDER A USE AND POSSESSION ORDER ISSUED UNDER TITLE 8, SUBTITLE 2 OF THE FAMILY LAW ARTICLE.

(D) "MORTGAGE FRAUD" MEANS ANY ACTION BY A PERSON MADE WITH THE INTENT TO DEFRAUD THAT INVOLVES:

(1) KNOWINGLY MAKING ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION DURING THE MORTGAGE LENDING PROCESS WITH THE INTENT THAT THE MISSTATEMENT, MISREPRESENTATION,

OR OMISSION BE RELIED ON BY A MORTGAGE LENDER, BORROWER, OR ANY OTHER PARTY TO THE MORTGAGE LENDING PROCESS;

(2) KNOWINGLY USING OR FACILITATING THE USE OF ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION DURING THE MORTGAGE LENDING PROCESS WITH THE INTENT THAT THE MISSTATEMENT, MISREPRESENTATION, OR OMISSION BE RELIED ON BY A MORTGAGE LENDER, BORROWER, OR ANY OTHER PARTY TO THE MORTGAGE LENDING PROCESS;

(3) RECEIVING ANY PROCEEDS OR ANY OTHER FUNDS IN CONNECTION WITH A MORTGAGE CLOSING THAT THE PERSON KNOWS RESULTED FROM A VIOLATION OF ITEM (1) OR (2) OF THIS SECTION;

(4) CONSPIRING TO VIOLATE ANY OF THE PROVISIONS OF ITEM (1), (2), OR (3) OF THIS SECTION; OR

(5) FILING OR CAUSING TO BE FILED IN THE LAND RECORDS IN THE COUNTY WHERE A RESIDENTIAL REAL PROPERTY IS LOCATED, ANY DOCUMENT RELATING TO A MORTGAGE LOAN THAT THE PERSON KNOWS TO CONTAIN A DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION.

(E) (1) "MORTGAGE LENDING PROCESS" MEANS THE PROCESS BY WHICH A PERSON SEEKS OR OBTAINS A MORTGAGE LOAN.

(2) "MORTGAGE LENDING PROCESS" INCLUDES:

(I) THE SOLICITATION, APPLICATION, ORIGINATION, NEGOTIATION, SERVICING, UNDERWRITING, SIGNING, CLOSING, AND FUNDING OF A MORTGAGE LOAN; AND

(II) THE NOTARIZING OF ANY DOCUMENT IN CONNECTION WITH A MORTGAGE LOAN.

(F) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(G) "PATTERN OF MORTGAGE FRAUD" MEANS TWO OR MORE INCIDENTS OF MORTGAGE FRAUD THAT:

(1) INVOLVE TWO OR MORE RESIDENTIAL REAL PROPERTIES; AND

(2) HAVE SIMILAR INTENTS, RESULTS, ACCOMPLICES, VICTIMS, OR METHODS OF COMMISSION OR OTHERWISE ARE INTERRELATED BY DISTINGUISHING CHARACTERISTICS.

(H) "RESIDENTIAL REAL PROPERTY" ~~HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE~~ MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

7–402.

A PERSON MAY NOT COMMIT MORTGAGE FRAUD.

7–403.

FOR THE PURPOSE OF VENUE UNDER THIS SUBTITLE, A VIOLATION OF THIS SUBTITLE SHALL BE CONSIDERED TO HAVE BEEN COMMITTED:

(1) IN THE COUNTY IN WHICH THE RESIDENTIAL REAL PROPERTY IS LOCATED FOR WHICH A MORTGAGE LOAN IS BEING SOUGHT;

(2) IN THE COUNTY IN WHICH AN ACT WAS PERFORMED IN FURTHERANCE OF THE VIOLATION;

(3) IN THE COUNTY IN WHICH A PERSON ALLEGED TO HAVE VIOLATED THIS SUBTITLE HAD CONTROL OR POSSESSION OF ANY PROCEEDS OF THE VIOLATION;

(4) IF A CLOSING OCCURRED, IN THE COUNTY IN WHICH THE CLOSING OCCURRED; AND

(5) IN THE COUNTY IN WHICH A DOCUMENT CONTAINING A DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION IS FILED IN THE LAND RECORDS.

7–404.

(A) THE ATTORNEY GENERAL OR THE COMMISSIONER OF FINANCIAL REGULATION MAY SEEK AN INJUNCTION TO PROHIBIT A PERSON WHO HAS ENGAGED OR IS ENGAGING IN A VIOLATION OF THIS SUBTITLE FROM ENGAGING OR CONTINUING TO ENGAGE IN THE VIOLATION.

(B) THE COURT MAY ENTER ANY ORDER OR JUDGMENT NECESSARY TO:

(1) PREVENT THE USE BY A PERSON OF ANY PROHIBITED PRACTICE;

(2) RESTORE TO A PERSON ANY MONEY OR REAL OR PERSONAL PROPERTY ACQUIRED FROM THE PERSON BY MEANS OF ANY PROHIBITED PRACTICE; OR

(3) APPOINT A RECEIVER IN THE CASE OF A WILLFUL VIOLATION OF THIS SUBTITLE.

(C) IN ANY ACTION BROUGHT BY THE ATTORNEY GENERAL OR COMMISSIONER UNDER THIS SECTION, THE ATTORNEY GENERAL OR COMMISSIONER IS ENTITLED TO RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE STATE.

7–405.

(A) THE ATTORNEY GENERAL AND THE STATE'S ATTORNEY ARE AUTHORIZED TO CONDUCT THE CRIMINAL INVESTIGATION AND PROSECUTION OF ALL CASES OF MORTGAGE FRAUD UNDER THIS SUBTITLE.

(B) THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY, AS APPROPRIATE, SHALL PROMPTLY REPORT A CONVICTION UNDER THIS SUBTITLE TO THE UNIT OF STATE GOVERNMENT THAT HAS REGULATORY JURISDICTION OVER THE BUSINESS ACTIVITIES OF THE PERSON CONVICTED.

7–406.

(A) IN ADDITION TO ANY ACTION AUTHORIZED UNDER THIS SUBTITLE AND ANY OTHER ACTION OTHERWISE AUTHORIZED BY LAW, A PERSON MAY BRING AN ACTION FOR DAMAGES INCURRED AS THE RESULT OF A VIOLATION OF THIS SUBTITLE.

(B) A PERSON WHO BRINGS AN ACTION UNDER THIS SECTION AND WHO IS AWARDED DAMAGES MAY ALSO SEEK, AND THE COURT MAY AWARD, REASONABLE ATTORNEY'S FEES.

(C) IF THE COURT FINDS THAT THE DEFENDANT VIOLATED THIS SUBTITLE, THE COURT MAY AWARD DAMAGES EQUAL TO THREE TIMES THE AMOUNT OF ACTUAL DAMAGES.

7–407.

(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $5,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

(B) IF A VIOLATION INVOLVES A VICTIM WHO IS A VULNERABLE ADULT AS DEFINED UNDER § 3–604(A) OF THE CRIMINAL LAW ARTICLE, A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $15,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS OR BOTH.

(C) IF A VIOLATION INVOLVES ENGAGING OR PARTICIPATING IN A PATTERN OF MORTGAGE FRAUD OR A CONSPIRACY OR ENDEAVOR TO ENGAGE OR PARTICIPATE IN A PATTERN OF MORTGAGE FRAUD, A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $100,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH.

(D) (1) A PERSON CONVICTED OF VIOLATING THIS SUBTITLE SHALL PAY RESTITUTION TO ANY PERSON DAMAGED BY THE VIOLATION.

(2) RESTITUTION SHALL BE ORDERED IN ADDITION TO A FINE OR IMPRISONMENT OR BOTH.

(E) EACH RESIDENTIAL REAL PROPERTY TRANSACTION SUBJECT TO A VIOLATION OF THIS SUBTITLE CONSTITUTES A SEPARATE OFFENSE, AND SHALL NOT MERGE WITH ANY OTHER CRIMES SET FORTH IN THE CRIMINAL LAW ARTICLE.

(F) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO § 5–106(B) OF THE COURTS ARTICLE.

7–408.

(A) ALL REAL AND PERSONAL PROPERTY USED OR INTENDED FOR USE IN THE COURSE OF, DERIVED FROM, OR REALIZED THROUGH A VIOLATION OF THIS SUBTITLE SHALL BE SUBJECT TO FORFEITURE TO THE STATE.

(B) THE ATTORNEY GENERAL AND THE STATE'S ATTORNEY ARE AUTHORIZED TO COMMENCE FORFEITURE PROCEEDINGS UNDER THIS SUBTITLE.

(C) THE FORFEITURE OF PROPERTY UNDER THIS SUBTITLE SHALL BE SUBJECT TO TITLE 13, SUBTITLE 4 OF THE CRIMINAL PROCEDURE ARTICLE.

7–409.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND MORTGAGE FRAUD PROTECTION ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect June 1, 2008~~ 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 3, 2008.

CHAPTER 5

(Senate Bill 218)

AN ACT concerning

Protection of Homeowners in Foreclosure – Prohibition on Foreclosure Rescue Transactions – Enforcement

FOR the purpose of altering the applicability of certain provisions relating to the protection of homeowners in foreclosure; altering the contents of a certain foreclosure consulting contract; prohibiting a foreclosure consultant from engaging in or arranging a foreclosure rescue transaction or receiving a commission or money under certain circumstances; requiring a foreclosure consultant to be licensed as a real estate broker and to provide certain research to a homeowner under certain circumstances; repealing certain provisions

concerning foreclosure reconveyances; authorizing a homeowner to ~~cancel~~ rescind a contract for the sale or transfer of a residence in default under certain circumstances; requiring a contract for the sale or transfer of a residence in default to contain certain notices and attachments under certain circumstances; imposing certain prohibitions on a purchaser of a residence in default; authorizing the Commissioner of Financial Regulation to enforce certain provisions concerning the protection of homeowners in foreclosure; making a violation of this Act an unfair or deceptive trade practice under the Maryland Consumer Protection Act; requiring the Attorney General or the State's Attorney to notify the Commissioner of certain convictions; altering and defining certain terms; making stylistic and conforming changes; making this Act an emergency measure; and generally relating to the protection of homeowners in foreclosure.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxii)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Commercial Law
Section 13–301(14)(xxiv)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–301 to be under the amended subtitle "Subtitle 3. Protection of Homeowners in Foreclosure Act", 7–302, 7–305, 7–306, and 7–307; and 7–310 to be under the amended part "Part III. Sales or Transfers of Residences in Default", 7–311, 7–314, 7–315, 7–319, and 7–320
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Real Property
Section 7–308, 7–309, 7–310, 7–313, 7–318.1, and 7–322; and 7–325 to be under the new part "Part VI. Short Title"
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Real Property

Section 7–318 and 7–321
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxii) Section 14–1319 or § 14–1320 of this article; **[**or**]**

(XXIV) TITLE 7, SUBTITLE 3 OF THE REAL PROPERTY ARTICLE, THE PROTECTION OF HOMEOWNERS IN FORECLOSURE ACT; OR

Article – Real Property

Subtitle 3. Protection of Homeowners in Foreclosure **ACT**.

7–301.

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

(B) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

[(b)**] (C)** "Foreclosure consultant" means a person who:

(1) Solicits or contacts a homeowner in writing, in person, or through any electronic or telecommunications medium and directly or indirectly makes a representation or offer to perform any service that the person represents will:

(i) Stop, enjoin, delay, void, set aside, annul, stay, or postpone a foreclosure sale;

(ii) Obtain forbearance from any servicer, beneficiary or mortgagee;

(iii) Assist the homeowner to exercise a right of reinstatement provided in the loan documents or to refinance a loan that is in foreclosure and for which notice of foreclosure proceedings has been published;

(iv) Obtain an extension of the period within which the homeowner may reinstate the homeowner's obligation or extend the deadline to object to a ratification;

(v) Obtain a waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in **[**foreclosure**]** **DEFAULT** or contained in the mortgage;

(vi) Assist the homeowner to obtain a loan or advance of funds;

(vii) Avoid or ameliorate the impairment of the homeowner's credit resulting from the filing of an order to docket or a petition to foreclose or the conduct of a foreclosure sale;

(viii) Save the homeowner's residence from foreclosure;

(ix) Purchase or obtain an option to purchase the homeowner's residence within 20 days of an advertised or docketed foreclosure sale; **OR**

(x) Arrange for the homeowner to become a lessee or renter entitled to continue to reside in the homeowner's residence **AFTER A SALE OR TRANSFER**;

[(xi) Arrange for the homeowner to have an option to repurchase the homeowner's residence; or

(xii) Engage in any documentation, grant, conveyance, sale, lease, trust, or gift by which the homeowner clogs the homeowner's equity of redemption in the homeowner's residence;**]** or

(2) Systematically contacts owners of **[**property that court records or newspaper advertisements show are in foreclosure or in danger of foreclosure**]** **RESIDENCES IN DEFAULT TO OFFER FORECLOSURE CONSULTING SERVICES**.

[(c)**]** **(D)** "Foreclosure consulting contract" means a written, oral, or equitable agreement between a foreclosure consultant and a homeowner for the provision of any foreclosure consulting service **[**or foreclosure reconveyance**]**.

[(d)**]** **(E)** "Foreclosure consulting service" includes:

(1) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in **[**foreclosure**]** **DEFAULT**;

(2) Contacting creditors on behalf of a homeowner;

(3) Arranging or attempting to arrange for an extension of the period within which a homeowner may cure the homeowner's default and reinstate the homeowner's obligation;

(4) Arranging or attempting to arrange for any delay or postponement of the sale of a residence in **[**foreclosure**]** **DEFAULT**;

(5) Arranging or facilitating the purchase of a homeowner's equity of redemption or legal or equitable title **[**within 20 days of an advertised or docketed foreclosure sale**]**;

(6) **[**Arranging or facilitating any transaction through which a homeowner will become a lessee, optionee, life tenant, partial homeowner, or vested or contingent remainderman of the homeowner's residence;

(7)**]** Arranging or facilitating the sale of a homeowner's residence or the transfer of legal title, in any form, to another party as an alternative to foreclosure; **OR**

[(8) Arranging for a homeowner to have an option to repurchase the homeowner's residence after a sale or transfer;

(9)**] (7)** Arranging for or facilitating a homeowner remaining in the homeowner's residence **AFTER A SALE OR TRANSFER** as a tenant, renter, or lessee **UNDER TERMS PROVIDED IN A WRITTEN LEASE[**; or

(10) Arranging or facilitating any other grant, conveyance, sale, lease, trust, or gift by which a homeowner clogs the homeowner's equity of redemption in the homeowner's residence**]**.

[(e) "Foreclosure purchaser" means a person who acquires title or possession of a deed or other document to a residence in foreclosure as a result of a foreclosure reconveyance.

(f) "Foreclosure reconveyance" means a transaction involving:

(1) The transfer of title to real property by a homeowner during or incident to a proposed foreclosure proceeding, either by transfer of interest from the homeowner to another party or by creation of a mortgage, trust, or other lien or encumbrance during the foreclosure process that allows the acquirer to obtain legal or equitable title to all or part of the property; and

(2) The subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the homeowner by the acquirer or a person acting in participation with the acquirer that allows the homeowner to possess the real property following the completion of the foreclosure proceeding, including an interest in a contract for deed, purchase agreement, land installment sale, contract for sale, option to purchase, lease, trust, or other contractual arrangement.**]**

(F) "FORECLOSURE RESCUE TRANSACTION" MEANS A TRANSACTION:

(1) IN WHICH A RESIDENCE IN DEFAULT IS CONVEYED BY A HOMEOWNER WHO RETAINS A LEGAL OR EQUITABLE INTEREST IN ALL OR PART OF THE PROPERTY, INCLUDING AN INTEREST UNDER A LEASE–PURCHASE AGREEMENT, AN OPTION TO REACQUIRE THE PROPERTY, OR ANY OTHER LEGAL OR EQUITABLE INTEREST IN THE PROPERTY CONVEYED; AND

(2) THAT IS DESIGNED OR INTENDED BY THE PARTIES TO PREVENT OR DELAY ACTUAL OR ANTICIPATED FORECLOSURE PROCEEDINGS AGAINST THE RESIDENCE IN DEFAULT.

(g) "Foreclosure surplus acquisition" means a transaction involving the transfer, sale, or assignment of the surplus remaining and due the homeowner based on the audit account during a foreclosure proceeding.

(h) (1) "Foreclosure surplus purchaser" means a person who acts as the acquirer by assignment, purchase, grant, or conveyance of the surplus resulting from a foreclosure sale.

(2) "Foreclosure surplus purchaser" includes a person who acts in joint venture or joint enterprise with one or more acquirers.

(i) "Homeowner" means the record owner of a residence in **DEFAULT OR A RESIDENCE IN** foreclosure, or an individual occupying the residence under a use and possession order issued under Title 8, Subtitle 2 of the Family Law Article**[**, at the time an order to docket or a petition to foreclose is filed**]**.

(J) "RESIDENCE IN DEFAULT" MEANS RESIDENTIAL REAL PROPERTY LOCATED IN THE STATE CONSISTING OF NOT MORE THAN FOUR SINGLE FAMILY

DWELLING UNITS, ONE OF WHICH IS OCCUPIED BY THE OWNER, OR THE OWNER'S SPOUSE OR FORMER SPOUSE UNDER A USE AND POSSESSION ORDER ISSUED UNDER TITLE 8, SUBTITLE 2 OF THE FAMILY LAW ARTICLE, AS THE INDIVIDUAL'S PRINCIPAL PLACE OF RESIDENCE, AND ON WHICH THE MORTGAGE IS AT LEAST ~~30~~ 60 DAYS IN DEFAULT.

[(j)**] (K)** "Residence in foreclosure" means residential real property **LOCATED IN THE STATE** consisting of not more than four single family dwelling units, one of which is occupied by the owner, or the owner's spouse or former spouse under a use and possession order issued under Title 8, Subtitle 2 of the Family Law Article, as the individual's principal place of residence, and against which an order to docket or a petition to foreclose has been filed.

(L) "SETTLEMENT" MEANS AN IN–PERSON, FACE–TO–FACE MEETING WITH THE HOMEOWNER TO COMPLETE FINAL DOCUMENTS INCIDENT TO THE SALE OR TRANSFER OF REAL PROPERTY OR THE CREATION OF A MORTGAGE OR EQUITABLE INTEREST IN REAL PROPERTY, CONDUCTED BY A SETTLEMENT AGENT, DURING WHICH THE HOMEOWNER MUST BE PRESENTED WITH A COMPLETED COPY OF THE HUD–1 SETTLEMENT FORM.

7–302.

(a) Except as provided in subsection (b) of this section, this subtitle does not apply to:

(1) An individual admitted to practice law in the State, while performing any activity related to the individual's regular practice of law in the State;

(2) **[**~~(~~A person who holds or ~~is owed an obligation~~ **SERVICES A MORTGAGE LOAN** secured by a ~~lien on any~~ residence in ~~foreclosure~~ **DEFAULT** while the person performs ~~services in connection with the obligation or lien, if the obligation or lien~~ **SERVICING, COLLECTION, AND LOSS MITIGATION ACTIVITIES IN REGARD TO THAT MORTGAGE LOAN, PROVIDED THE MORTGAGE LOAN** did not arise as a result of a foreclosure ~~reconveyance~~ **CONSULTING CONTRACT**;

(3)**]** (i) A person doing business under any law of this State or the United States regulating banks, trust companies, savings and loan associations, credit unions, or insurance companies, while the person performs services as a part of the person's normal business activities; and

(ii) Any subsidiary, affiliate, or agent of a person described in item (i) of this item, while the subsidiary, affiliate, or agent performs services as a part of the subsidiary's, affiliate's, or agent's normal business activities;

~~[~~(4)~~]~~ **~~(3)~~** A judgment creditor of the homeowner, if the judgment creditor's claim accrued before the written notice of foreclosure sale required under § 7–105(b) of this title is sent;

[(5) A title insurer authorized to conduct business in the State, while performing title insurance and settlement services;

(6) A title insurance producer licensed in the State, while performing services in accordance with the person's license;**]**

~~(7)~~ **(5)** A person licensed as a ~~mortgage broker or~~ mortgage lender under Title 11, Subtitle 5 of the Financial Institutions Article while ~~acting~~**:**

(I) ACTING under the authority of that ~~license;~~ **LICENSE IN REGARD TO A RESIDENCE IN DEFAULT; AND**

(II) ARRANGING FOR A REFINANCING OF A MORTGAGE LOAN FOR THE RESIDENCE IN DEFAULT;

~~(8)~~ **(6)** A person licensed as a real estate broker, associate real estate broker, or real estate salesperson under Title 17 of the Business Occupations and Professions Article~~, while the person engages in any activity for which the person is licensed under those provisions so long as any conveyance or transfer of deed, title, or establishment of equitable interest is done through a settlement as defined in § 7–311(a)(5) of this subtitle;~~**]** ~~or~~ **ONLY:**

(I) WHILE THE PERSON:

1. ENGAGES IN ANY ACTIVITY FOR WHICH THE PERSON IS LICENSED UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

2. DOES NOT VIOLATE ANY PROVISION OF § 7–307 OF THIS SUBTITLE OR TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

(II) IF THE RESIDENCE IN DEFAULT FOR WHICH THE PERSON IS CONDUCTING A LICENSED ACTIVITY:

1. IS LISTED IN THE LOCAL MULTIPLE LISTING SERVICE; AND

2. IS SOLD OR TRANSFERRED THROUGH A SETTLEMENT, INCLUDING THE CONVEYANCE OR TRANSFER OF DEED, TITLE, OR ESTABLISHMENT OF EQUITABLE INTEREST; OR

[(9)**]** ~~**(4)**~~ **(7)** A nonprofit organization that solely offers counseling or advice to homeowners in foreclosure or loan default, if the organization is not directly or indirectly related to and does not contract for services with for–profit lenders ~~or foreclosure purchasers~~.

(b) This subtitle does apply to an individual who:

(1) Is functioning in a position listed under subsection (a) of this section; and

(2) Is engaging in activities or providing services designed or intended to transfer title to a residence in **[**foreclosure**]** **DEFAULT** directly or indirectly to that individual, **A RELATIVE OF THAT INDIVIDUAL,** or an agent or affiliate of that individual.

7–305.

(a) In addition to any other right under law to cancel ~~**[**~~or rescind~~**]**~~ a contract, a homeowner has the right to**[**:

(1) Rescind**]** ~~**CANCEL**~~ **RESCIND** a foreclosure consulting contract at any time**[**; and

(2) Rescind a foreclosure reconveyance at any time before midnight of the 3rd business day after any conveyance or transfer in any manner of legal or equitable title to a residence in foreclosure**]**.

(b) ~~**[**Rescission**]** **CANCELLATION**~~ Rescission occurs when the homeowner gives written notice of ~~**[**rescission**]** **CANCELLATION**~~ rescission to the foreclosure consultant at the address specified in the contract or through any facsimile or electronic mail address identified in the contract or other materials provided to the homeowner by the foreclosure consultant.

(c) Notice of ~~**[**rescission**]** **CANCELLATION**~~ rescission, if given by mail, is effective when deposited in the United States mail, properly addressed, with postage prepaid.

(d) Notice of ~~**[**rescission**] CANCELLATION**~~ rescission need not be in the form provided with the contract and is effective, however expressed, if it indicates the intention of the homeowner to ~~**[**rescind**] CANCEL**~~ rescind the foreclosure consulting contract **[**or foreclosure reconveyance**]**.

(e) **[**As part of**] AFTER** the ~~**[**rescission**] CANCELLATION**~~ rescission of a foreclosure consulting contract **[**or foreclosure reconveyance**]**, the homeowner shall repay, within 60 days from the date of ~~**[**rescission**] CANCELLATION**~~ rescission, any funds paid or advanced by the foreclosure consultant or anyone working with the foreclosure consultant under the terms of the foreclosure consulting contract **[**or foreclosure reconveyance**]**, together with interest calculated at the rate of 8% a year.

(f) The right to ~~**[**rescind**] CANCEL**~~ rescind may not be conditioned on the repayment of any funds.

7–306.

(a) A foreclosure consulting contract shall:

(1) Be provided to the homeowner for review before signing;

(2) Be printed in at least 12 point type and written in the same language that is used by the homeowner and was used in discussions with the foreclosure consultant to describe the consultant's services or to negotiate the contract;

(3) Fully disclose the exact nature of the foreclosure consulting services to be provided, including any **[**foreclosure reconveyance**] SALE OR TENANCY** that may be involved, and the total amount and terms of any compensation **FROM ANY SOURCE** to be received by the foreclosure consultant or anyone working in association with the consultant;

(4) **STATE THE DUTY OF THE FORECLOSURE CONSULTANT TO PROVIDE THE HOMEOWNER WITH WRITTEN COPIES OF ANY RESEARCH THE FORECLOSURE CONSULTANT HAS REGARDING THE VALUE OF THE HOMEOWNER'S RESIDENCE IN DEFAULT, INCLUDING ANY INFORMATION ON SALES OF COMPARABLE PROPERTIES OR ANY APPRAISALS;**

(5) Be dated and personally signed by the homeowner and the foreclosure consultant and be witnessed and acknowledged by a notary public appointed and commissioned by the State; and

[(5)**] (6)** Contain the following notice, which shall be printed in at least 14 point boldface type, completed with the name of the foreclosure consultant,

and located in immediate proximity to the space reserved for the homeowner's signature:

"NOTICE REQUIRED BY MARYLAND LAW

..... (Name) or anyone working for him or her CANNOT ask you to sign or have you sign any lien, mortgage, or deed as part of signing this agreement unless the terms of the transfer are specified in this document and you are given a separate explanation of the precise nature of the transaction. **THE SEPARATE EXPLANATION MUST INCLUDE: HOW MUCH MONEY YOU MUST PAY; HOW MUCH MONEY YOU WILL RECEIVE, IF ANY; AND HOW MUCH MONEY THE FORECLOSURE CONSULTANT WILL RECEIVE FROM ANY SOURCE.**

..... (Name) or anyone working for him or her CANNOT guarantee you that they will be able to refinance your home or arrange for you to keep your home. Continue making mortgage payments until a refinancing, if applicable, is approved.

YOU HAVE THE RIGHT TO ~~CANCEL~~ RESCIND THIS FORECLOSURE CONSULTING CONTRACT AT ANY TIME BY INFORMING THE FORECLOSURE CONSULTANT THAT YOU WANT TO ~~CANCEL~~ RESCIND THE CONTRACT. SEE THE ATTACHED NOTICE OF ~~CANCELLATION~~ RESCISSION FORM FOR AN EXPLANATION OF THIS RIGHT. AFTER ANY ~~CANCELLATION~~ RESCISSION, YOU MUST REPAY, WITHIN 60 DAYS, ANY MONEY SPENT ON YOUR BEHALF AS A RESULT OF THIS AGREEMENT, ALONG WITH INTEREST CALCULATED AT THE RATE OF 8% A YEAR.

If a **CONTRACT TO SELL OR** transfer **[**of**]** the deed or title to your property is involved in any way, you may **[**~~rescind the transfer~~**] ~~CANCEL~~** rescind **THAT CONTRACT AT** any time within **[**3**] 5** days after the date you sign **[**the deed or other document of sale or transfer**] THAT CONTRACT AND YOU ARE INFORMED OF THIS RIGHT**. **[**See the attached Notice of Rescission form for an explanation of this right.**] [**As part of**] AFTER** any **[**~~rescission~~**] ~~CANCELLATION~~** rescission, you must repay, within 60 days, any money spent on your behalf as a result of this agreement, along with interest calculated at the rate of 8% a year.

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE SIGNING.".

(b) The contract shall contain on the first page, in at least 12 point type size:

(1) The name and address of the foreclosure consultant to which the notice of ~~cancellation~~ **RESCISSION** is to be mailed; and

(2) The date the homeowner signed the contract.

(c) (1) The contract shall be accompanied by a completed form in duplicate, captioned "NOTICE OF ~~[~~RESCISSION~~] CANCELLATION~~ RESCISSION".

(2) The Notice of ~~[~~Rescission~~] CANCELLATION~~ Rescission shall:

(i) Be on a separate sheet of paper attached to the contract;

(ii) Be easily detachable; and

(iii) Contain the following statement printed in at least 15 point type:

"NOTICE OF ~~[~~RESCISSION~~] CANCELLATION~~ RESCISSION

(Date of Contract)

You may ~~cancel [or rescind]~~ rescind this **FORECLOSURE CONSULTING** contract, without any penalty, at any time.

If you want to **[**end**]** ~~CANCEL~~ **RESCIND** this contract, mail or deliver a signed and dated copy of this Notice of ~~[~~Rescission~~] CANCELLATION~~ Rescission, or any other written notice indicating your intent to ~~[rescind] CANCEL~~ rescind to (name of foreclosure consultant) at (address of foreclosure consultant, including facsimile and electronic mail).

[As part of**]** **AFTER** any ~~[rescission] CANCELLATION~~ rescission, you (the homeowner) must repay any money spent on your behalf as a result of this agreement, within 60 days, along with interest calculated at the rate of 8% a year.

This is an important legal contract and could result in the loss of your home. Contact an attorney before signing.

NOTICE OF ~~[~~RESCISSION~~] CANCELLATION~~ RESCISSION

TO: (name of foreclosure consultant)

(address of foreclosure consultant, including facsimile and electronic mail)

I hereby ~~**[**rescind**] CANCEL**~~ rescind this contract.

…..... (Date)

…… (Homeowner's signature)".

(d) The foreclosure consultant shall provide the homeowner with a signed and dated copy of the **FORECLOSURE CONSULTING** contract and the attached Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission immediately upon execution of the contract.

(e) The time during which the homeowner may ~~**[**rescind**] CANCEL**~~ rescind the **FORECLOSURE CONSULTING** contract does not begin to run until the foreclosure consultant has complied with this section.

(f) Any provision in a foreclosure consulting contract that attempts or purports to waive any of the rights specified in this title, consent to jurisdiction for litigation or choice of law in a state other than Maryland, consent to venue in a county other than the county in which the property is located, or impose any costs or filing fees greater than the fees required to file an action in a circuit court, is void.

7–307.

A foreclosure consultant may not:

(1) **ENGAGE IN, ARRANGE, OFFER, PROMOTE, PROMISE, SOLICIT, PARTICIPATE IN, ASSIST WITH, OR CARRY OUT A FORECLOSURE RESCUE TRANSACTION;**

(2) Claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented that the foreclosure consultant would perform;

[(2)**] (3)** Claim, demand, charge, collect, or receive any interest or any other compensation for any loan that the foreclosure consultant makes to the homeowner that exceeds 8% a year;

[(3)**] (4)** Take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation;

[(4)**] (5)** Receive any consideration from any third party in connection with foreclosure consulting services provided to a homeowner unless the consideration**:**

(I) [is**] IS** first fully disclosed in writing to the homeowner;

(II) IS CLEARLY LISTED ON ANY SETTLEMENT DOCUMENTS; AND

(III) IS NOT IN VIOLATION OF ANY PROVISION OF THIS SUBTITLE;

(6) RECEIVE A COMMISSION, REGARDLESS OF HOW DESCRIBED, FOR THE SALE OF A RESIDENCE IN DEFAULT THAT EXCEEDS 8% OF THE SALES PRICE;

(7) RECEIVE ANY MONEY TO BE HELD IN ESCROW OR ON A CONTINGENT BASIS ON BEHALF OF THE HOMEOWNER;

[(5)**] (8)** Acquire any interest, directly or indirectly, or by means of a subsidiary, affiliate, or corporation in which the foreclosure consultant or a member of the foreclosure consultant's immediate family is a primary stockholder, in a residence in **[**foreclosure**] DEFAULT** from a homeowner with whom the foreclosure consultant has contracted;

[(6)**] (9)** Take any power of attorney from a homeowner for any purpose, except to inspect documents as provided by law; or

[(7)**] (10)** Induce or attempt to induce any homeowner to enter into a foreclosure consulting contract that does not comply in all respects with this subtitle.

7–308.

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

(2) "LICENSE" HAS THE MEANING STATED IN § 17–101(G) OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(3) "PROVIDE REAL ESTATE BROKERAGE SERVICES" HAS THE MEANING STATED IN § 17–101(L) OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(B) A FORECLOSURE CONSULTANT WHO PROVIDES REAL ESTATE BROKERAGE SERVICES SHALL BE LICENSED AS REQUIRED UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(C) A FORECLOSURE CONSULTANT SHALL PRESENT A COPY OF THE LICENSE TO A HOMEOWNER NO LATER THAN THE TIME A FORECLOSURE CONSULTING CONTRACT IS EXECUTED.

7–309.

(A) A FORECLOSURE CONSULTANT HAS A DUTY TO PROVIDE THE HOMEOWNER WITH WRITTEN COPIES OF ANY RESEARCH THE FORECLOSURE CONSULTANT HAS REGARDING THE VALUE OF THE HOMEOWNER'S RESIDENCE IN DEFAULT, INCLUDING ANY INFORMATION ON SALES OF COMPARABLE PROPERTIES OR ANY APPRAISALS.

(B) A FORECLOSURE CONSULTANT OWES THE SAME DUTY OF CARE TO A HOMEOWNER AS A LICENSED REAL ESTATE BROKER OWES TO A CLIENT UNDER § 17–532 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

Part III. **[**Foreclosure Purchases**] SALES OR TRANSFERS OF RESIDENCES IN DEFAULT**.

7–310.

(A) IN ADDITION TO ANY OTHER RIGHT UNDER LAW TO ~~CANCEL~~ RESCIND A CONTRACT, ~~IF A CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT IS INCLUDED IN A FORECLOSURE CONSULTING CONTRACT OR ARRANGED BY A FORECLOSURE CONSULTANT,~~ THE HOMEOWNER OF ~~THE~~ A RESIDENCE IN DEFAULT HAS THE RIGHT TO ~~CANCEL~~ RESCIND ~~THE~~ A CONTRACT FOR THE SALE OR TRANSFER OF THE RESIDENCE IN DEFAULT WITHIN 5 DAYS AFTER THE EXECUTION OF THE CONTRACT.

(B) ANY PROVISION IN A CONTRACT OR OTHER AGREEMENT CONCERNING A SALE OR TRANSFER OF A RESIDENCE IN DEFAULT THAT ATTEMPTS OR PURPORTS TO WAIVE THE HOMEOWNER'S RIGHTS UNDER THIS TITLE, CONSENT TO JURISDICTION FOR LITIGATION OR CHOICE OF LAW IN A STATE OTHER THAN MARYLAND, CONSENT TO VENUE IN A COUNTY OTHER THAN THE COUNTY IN WHICH THE PROPERTY IS LOCATED, OR IMPOSE ANY COSTS OR FILING FEES GREATER THAN THE FEES REQUIRED TO FILE AN ACTION IN A CIRCUIT COURT, IS VOID.

(C) EXCEPT WHEN A PRIMARY MORTGAGE LENDER TAKES A DEED IN LIEU OF FORECLOSURE, A SALE OR TRANSFER OF A RESIDENCE IN DEFAULT MAY NOT BE EXECUTED USING A QUITCLAIM DEED.

(D) A NOTICE OF RESCISSION UNDER THIS SECTION:

(1) SHALL BE IN WRITING BUT NEED NOT TAKE ANY PARTICULAR FORM SPECIFIED IN THIS SUBTITLE OR ANY FORM CONTAINED IN ANY AGREEMENT WITH THE PURCHASER OR TRANSFEREE; AND

(2) IS EFFECTIVE, HOWEVER EXPRESSED, IF IT INDICATES THE INTENTION OF THE HOMEOWNER TO RESCIND THE CONTRACT.

(E) THE RIGHT TO RESCIND MAY NOT BE CONDITIONED ON THE REPAYMENT OF ANY FUNDS, PROVIDED HOWEVER THAT ANY DEBT EXISTING PRIOR TO A RESCISSION SHALL CONTINUE TO EXIST.

(F) WITHIN 10 DAYS AFTER RECEIPT OF A NOTICE OF RESCISSION, THE PURCHASER OR TRANSFEREE SHALL RETURN, WITHOUT CONDITION, ANY ORIGINAL DEED, TITLE, CONTRACT, AND ANY OTHER DOCUMENT SIGNED BY THE HOMEOWNER.

(G) DURING THE 5–DAY RESCISSION PERIOD, A DEED OR OTHER DOCUMENT AFFECTING TITLE TO THE HOMEOWNER'S RESIDENCE IN DEFAULT MAY NOT BE RECORDED.

[7–310.**] 7–311.**

(A) THIS SECTION APPLIES TO A CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT THAT IS INCLUDED IN A FORECLOSURE CONSULTING CONTRACT OR ARRANGED BY A FORECLOSURE CONSULTANT.

[(a)**] (B) [**If a foreclosure reconveyance is included in a foreclosure consulting contract or arranged after the execution of a foreclosure consulting contract, the foreclosure**] IN ADDITION TO ANY OTHER REQUIREMENT UNDER LAW, THE** purchaser **OF A RESIDENCE IN DEFAULT** shall provide the homeowner with a document entitled "Notice **[**of Transfer of Deed or Title**] TO HOMEOWNER**".

[(b)**] (C)** The document entitled "Notice **[**of Transfer of Deed or Title**] TO HOMEOWNER**" shall:

(1) Contain the **[**entire agreement of the parties**]** **TOTAL SALES PRICE OF THE RESIDENCE IN DEFAULT AND AN EXPLANATION OF THE DISTRIBUTION OF THE PROCEEDS OF THE SALE, INCLUDING ANY PAYMENTS TO ANY PARTIES, INCLUDING THE FORECLOSURE CONSULTANT**;

(2) Be printed in 12 point type and written in the same language that is used by the homeowner and was used in discussions to describe the foreclosure consultant's or **[**foreclosure**]** purchaser's services or to negotiate the transfer or sale of the property;

(3) Be dated and personally signed by the homeowner and the **[**foreclosure**]** purchaser and witnessed and acknowledged by a notary public appointed and commissioned by the State;

(4) Describe in detail the terms of any **[**foreclosure conveyance**]** **SALE OR TRANSFER** including:

(i) The name, business address, telephone number, and facsimile number of the person to whom the deed or title will be **SOLD OR** transferred;

(ii) The address of the residence in **[**foreclosure**]** **DEFAULT**;

(iii) The total consideration to be given **OR RECEIVED, DIRECTLY OR INDIRECTLY,** by the **[**foreclosure**]** **HOMEOWNER,** purchaser, **AND** the foreclosure consultant**[**, and any other party as a result of the transfer**]**;

(iv) The time at which title is to be **SOLD OR** transferred to the **[**foreclosure**]** purchaser **[**and the terms of any conveyance**]**; **AND**

(v) Any financial or legal obligations **[**that**]** **TO WHICH** the homeowner may remain subject **[**to, including a description of any mortgages, liens, or other obligations that will remain in place;

(vi) A description of any services of any nature that the foreclosure purchaser will perform for the homeowner before or after the sale or transfer;

(vii) A complete description of the terms of any related agreement designed to allow the homeowner to remain in the home, including the terms of any rental agreement, repurchase agreement, contract for deed, land installment contract, or option to buy, and any provisions for eviction or removal of the homeowner in the case of late payment; and

(viii) How any repurchase price or fee associated with any transfer of title or deed back to the homeowner will be calculated.**]; AND**

(5) Contain the following statement printed in at least 14 point boldface type and located in immediate proximity to the space reserved for the homeowner's signature:

"If you change your mind about **SELLING OR** transferring ownership of your property, you, the homeowner, may ~~**[**rescind**] CANCEL**~~ rescind the **CONTRACT FOR THE SALE OR** transfer of the deed or title to your property any time within the next **[**3**] 5** days. **SEE THE ATTACHED NOTICE OF RIGHT TO ~~CANCEL~~ RESCIND CONTRACT FOR THE SALE OR TRANSFER OF DEED OR TITLE. [**As part of**] AFTER** any ~~**[**rescission**] CANCELLATION**~~ rescission, you must repay, within 60 days, any money spent on your behalf as a result of this agreement, along with interest calculated at the rate of 8% a year.

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE SIGNING.".

[(c)**] (D)** (1) **[**If a foreclosure reconveyance is included in a foreclosure consulting contract or arranged after the execution of a foreclosure consulting contract, the foreclosure**] THE** purchaser shall provide the homeowner with a document entitled "NOTICE OF RIGHT TO ~~CANCEL~~ **RESCIND CONTRACT FOR THE SALE OR** TRANSFER OF DEED OR TITLE".

(2) The **DOCUMENT ENTITLED "**NOTICE OF RIGHT TO ~~CANCEL~~ **RESCIND CONTRACT FOR THE SALE OR** TRANSFER OF DEED OR TITLE**"** shall:

(i) Be a separate document and not printed on the back of any other document; and

(ii) Contain the following statement printed in at least 14 point type:

"NOTICE OF RIGHT TO ~~CANCEL~~ **RESCIND CONTRACT FOR THE SALE OR** TRANSFER OF DEED OR TITLE

(Date)

You may ~~cancel **[**or rescind**]**~~ rescind the **CONTRACT FOR THE SALE OR** transfer of ownership of your property **[**through the transfer of a deed or title**]**

within **[**3**]** **5** business days after the date you sign this document **AND ARE NOTIFIED OF THIS RIGHT**.

To **[**~~rescind~~**]** **~~CANCEL~~** rescind this **[**transaction**]** **CONTRACT**, mail or deliver a signed and dated copy of this Notice, or any other written notice expressing a similar intent to (name of **[**foreclosure consultant**]** **PURCHASER**) at (address of **[**foreclosure consultant**]** **PURCHASER**, including facsimile and electronic mail).

[As part of**]** **AFTER** any **[**~~rescission~~**]** **~~CANCELLATION~~** rescission, you (the homeowner) must repay any money spent on your behalf as a result of this agreement, within 60 days, along with interest calculated at the rate of 8% a year.

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE SIGNING.

NOTICE OF **[**~~RESCISSION~~**]** **~~CANCELLATION~~** RESCISSION

TO: (name of **[**foreclosure consultant**]** **PURCHASER**)

(address of **[**foreclosure consultant**]** **PURCHASER**, including facsimile and electronic mail)

I hereby **[**~~rescind~~**]** **~~CANCEL~~** rescind the **CONTRACT FOR THE SALE OR** transfer of deed or title to my property. Please return all executed documents to me.

…… (Date)

…… (Homeowner's signature)".

[(d)**]** **(E)** The **[**foreclosure**]** purchaser shall provide the homeowner with a copy of the Notice of Right to ~~Cancel~~ **RESCIND CONTRACT FOR THE SALE OR** Transfer of Deed or Title immediately on execution of any document that includes **[**a foreclosure reconveyance**]** **AN AGREEMENT TO SELL OR TRANSFER**.

[(e)**]** **(F)** The time during which the homeowner may **[**~~rescind~~**]** **~~CANCEL~~** rescind the contract **FOR THE SALE** or transfer does not begin to run until the **[**foreclosure**]** purchaser has complied with this **[**section**]** **PART**.

~~**[**(f)**] (G)** Any provision in a **[**foreclosure consulting**]** contract or other agreement concerning a **[**foreclosure reconveyance**] SALE OR TRANSFER OF A RESIDENCE ON DEFAULT** that attempts or purports to waive the homeowner's rights under this **[**section**] TITLE**, consent to jurisdiction for litigation or choice of law in a state other than Maryland, consent to venue in a county other than the county in which the property is located, or impose any costs or filing fees greater than the fees required to file an action in a circuit court, is void.~~

~~**[**(g)**] (H)** A **[**foreclosure reconveyance**] SALE OR TRANSFER OF A RESIDENCE IN DEFAULT** may not be carried out using**:**~~

~~**(1) [**a**] A** power of attorney from the homeowner**; OR**~~

~~**(2) A QUIT CLAIM DEED.**~~

~~**[**(h)**] (I)** A notice of **[**rescission**] CANCELLATION** need not take the particular form specified in this **[**subtitle**] SECTION** or any form contained in any agreement with the **[**foreclosure consultant or foreclosure**]** purchaser and is effective, however expressed, if it indicates the intention of the homeowner to **[**rescind**] CANCEL** the **[**reconveyance agreement**] CONTRACT.**~~

~~**[**(i)**] (J)** The right to **[**rescind**] CANCEL** may not be conditioned on the repayment of any funds.~~

~~**[**(j)**] (K)** Within 10 days after receipt of a notice of **[**rescission**] CANCELLATION** given in accordance with this **[**subtitle**] SECTION**, the **[**foreclosure**]** purchaser shall return, without condition, any original deed, title, contract, and any other document signed by the homeowner.~~

~~**[**(k)**] (L)** During the **[**3–day**] 5–DAY [**rescission**] CANCELLATION** period, a deed or other document affecting title to the homeowner's residence **IN DEFAULT** may not be recorded.~~

[7–311.**] 7–312.**

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

(2) "Primary housing expenses" means the total amount required to pay regular principal, interest, rent, utilities, hazard insurance, real estate taxes, and association dues on a property.

(3) "Resale" means a bona fide market sale of property subject to a foreclosure reconveyance by the foreclosure purchaser to an unaffiliated third party.

(4) "Resale price" means the gross sale price of a property on resale.

(5) "Settlement" means an in–person, face–to–face meeting with the homeowner to complete final documents incident to the sale or transfer of real property, or the creation of a mortgage or equitable interest in real property, conducted by a settlement agent who is not employed by or an affiliate of the foreclosure purchaser, during which the homeowner must be presented with a completed copy of the HUD–1 Settlement Form.

(b)**]** A **[**foreclosure**]** purchaser **OF A RESIDENCE IN DEFAULT** may not:

(1) **[**Enter into, or attempt to enter into, a foreclosure reconveyance with a homeowner unless:

(i) The foreclosure purchaser verifies and can demonstrate that the homeowner has or will have a reasonable ability to pay for the subsequent reconveyance of the property back to the homeowner on completion of the terms of a foreclosure conveyance, or, if the foreclosure conveyance provides for a lease with an option to repurchase the property, the homeowner has or will have a reasonable ability to make the lease payments and repurchase the property within the term of the option to repurchase;

(ii) The foreclosure purchaser and the homeowner complete a formal settlement before any transfer of an interest in the property is effected; and

(iii) The foreclosure**]** ~~**COMPLETE A SALE OR TRANSFER OF THE RESIDENCE IN DEFAULT UNTIL THE**~~ purchaser complies with the requirements of the federal Home Ownership Equity Protection Act, 15 U.S.C. 1639, and its implementing regulations ~~**[**~~for any foreclosure reconveyance in which the homeowner obtains a vendee interest in a contract for deed~~**]**~~;

(2) ~~**[**~~Fail to:

(i) Ensure that title to the property has been reconveyed to the homeowner in a timely manner if this subtitle or the terms of a foreclosure reconveyance agreement require a reconveyance; or

(ii) Make payment to the homeowner within 90 days of any resale of the property so that the homeowner receives cash payments or consideration in an amount equal to at least 82% of the net proceeds from any resale of the property should a property subject to a foreclosure reconveyance be sold within 18 months after entering into a foreclosure reconveyance agreement;

(3) Enter into repurchase or lease terms as part of the foreclosure conveyance that are unfair or commercially unreasonable, or engage in any other unfair conduct;

(4)**]** Represent, directly or indirectly, that:

(i) The **[**foreclosure**]** purchaser is acting as an advisor or a consultant, or in any other manner represent that the **[**foreclosure**]** purchaser is acting on behalf of the homeowner;

(ii) The **[**foreclosure**]** purchaser has certification or licensure that the **[**foreclosure**]** purchaser does not have;

(iii) The **[**foreclosure**]** purchaser is assisting the homeowner to "save the house" or use a substantially similar phrase; or

(iv) The **[**foreclosure**]** purchaser is assisting the homeowner in preventing a foreclosure if the result of the transaction is that the homeowner will **[**not complete a redemption of the property**]** **NO LONGER OWN THE PROPERTY**;

[(5)**]** ~~**(3)**~~ **(2)** Make any other statements, directly or by implication, or engage in any other conduct that is false, deceptive, or misleading, or that has the likelihood to cause confusion or misunderstanding, including statements regarding the value of the residence in **[**foreclosure**]** **DEFAULT**, the amount of proceeds the homeowner will receive after a **[**foreclosure**]** sale **OR TRANSFER**, any contract term, or the homeowner's rights or obligations incident to or arising out of the **[**foreclosure reconveyance**]** **SALE OR TRANSFER**; or

[(6)**]** ~~**(4)**~~ **(3)** Until the homeowner's right to ~~**[**rescind or**]**~~ ~~cancel~~ rescind the transaction has expired:

(i) Record any document, including an instrument of conveyance, signed by the homeowner; or

(ii) Transfer or encumber or purport to transfer or encumber any interest in the residence in **[**foreclosure**]** **DEFAULT** to any third party.

[(c) For purposes of subsection (b)(1) of this section, there is a rebuttable presumption that:

(1) A homeowner has a reasonable ability to pay for a subsequent reconveyance of the property if the homeowner's payments for primary housing

expenses and regular principal and interest payments on other personal debt, on a monthly basis, do not exceed 60% of the homeowner's monthly gross income; and

(2) The foreclosure purchaser has not verified reasonable payment ability if the foreclosure purchaser has not obtained documents other than a statement by the homeowner of assets, liabilities, and income.

(d) (1) The foreclosure purchaser shall make a detailed accounting of the basis for the amount of a payment made to the homeowner of a property resold within 18 months after entering into a foreclosure reconveyance agreement, in accordance with (b)(2)(ii) of this section.

(2) The accounting shall be on a form prescribed by the Attorney General in consultation with the Commissioner of Financial Regulation and shall include detailed documentation of expenses and other consideration paid by the foreclosure purchaser and deducted from the resale price.

(e) A bona fide purchaser for value or bona fide lender for value who enters into a transaction with a homeowner or a foreclosure purchaser when a foreclosure consulting contract is in effect or during the period when a foreclosure reconveyance may be rescinded, without notice of those facts, receives good title to the property, free and clear of the right of the parties to the foreclosure consulting contract or the right of the homeowner to rescind the foreclosure reconveyance.

(f) This subtitle may not be construed to impose any duty on a purchaser, title insurer, or title insurance producer with respect to the application of the proceeds of a sale of property by a foreclosure purchaser.**]**

7–313.

(A) (1) IF A TENANCY AGREEMENT IS INCLUDED IN A CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT, THE PURCHASER SHALL PROVIDE THE HOMEOWNER WITH A DOCUMENT ENTITLED "STATEMENT ABOUT TENANCY" AT THE TIME THE CONTRACT IS EXECUTED.

(2) THE DOCUMENT ENTITLED "STATEMENT ABOUT TENANCY" SHALL:

(I) BE ON A SEPARATE SHEET OF PAPER ATTACHED TO THE CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT;

(II) BE DATED AND PERSONALLY SIGNED BY THE HOMEOWNER AND THE PURCHASER AND BE WITNESSED AND ACKNOWLEDGED BY A NOTARY PUBLIC APPOINTED AND COMMISSIONED BY THE STATE;

(III) CONTAIN A STATEMENT INFORMING THE HOMEOWNER OF THE HOMEOWNER'S RIGHT TO A COPY OF A SIGNED LEASE; AND

(IV) CONTAIN THE FOLLOWING STATEMENT PRINTED IN AT LEAST 15 POINT TYPE:

"STATEMENT ABOUT TENANCY

(DATE OF CONTRACT)

I AGREE TO SELL MY HOME. I UNDERSTAND THAT I WILL NO LONGER HAVE AN OWNERSHIP INTEREST IN OR ANY OTHER RIGHT TO OWN THIS PROPERTY. EVEN THOUGH I MAY BE ABLE TO LIVE ON THE PREMISES AS A TENANT, I WILL HAVE NO RIGHT TO REPURCHASE THIS PROPERTY OR TO OBTAIN ANY OTHER KIND OF OWNERSHIP INTEREST. IF I DO NOT PAY THE RENT AS AGREED, I MAY BE SUBJECT TO EVICTION. AS A TENANT, I AM ENTITLED TO RECEIVE A WRITTEN LEASE FROM THE NEW OWNER OF THE PROPERTY.".

(B) THE PURCHASER SHALL PROVIDE THE HOMEOWNER WITH A SIGNED AND DATED COPY OF THE DOCUMENT ENTITLED "STATEMENT ABOUT TENANCY" IMMEDIATELY UPON EXECUTION OF THE CONTRACT FOR THE SALE OR TRANSFER OF THE RESIDENCE IN DEFAULT.

(C) THE TIME DURING WHICH THE HOMEOWNER MAY ~~CANCEL~~ RESCIND THE CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT UNDER § 7–310 OF THIS SUBTITLE DOES NOT BEGIN TO RUN UNTIL THE PURCHASER HAS COMPLIED WITH THIS SECTION.

7–314.

(a) Each foreclosure surplus acquisition shall be in the form of a written contract.

(b) Each foreclosure surplus acquisition contract shall:

(1) Contain the entire agreement of the parties;

(2) Be printed in at least 12 point type, in the same language that is used by the homeowner and was used by the foreclosure surplus purchaser and the homeowner to negotiate the sale of the residence in foreclosure;

(3) Be fully completed, dated, and personally signed by the homeowner and the foreclosure surplus purchaser before the statement of account has been referred to the auditor; and

(4) Include:

(i) The name, business address, and telephone number of the foreclosure surplus purchaser;

(ii) The address of the residence in foreclosure;

(iii) The total consideration to be given by the foreclosure surplus purchaser in connection with or incident to the transaction;

(iv) A complete description of the terms of payment or other consideration, including any services of any nature that the foreclosure surplus purchaser represents the foreclosure surplus purchaser will perform for the homeowner before or after the sale; and

(v) The following notice, which shall be printed in at least 14 point boldface type, completed with the name of the foreclosure surplus purchaser, and located in immediate proximity to the space reserved for the homeowner's signature:

"NOTICE REQUIRED BY MARYLAND LAW

If you have any questions about this document, seek legal counsel before signing. This is an important legal contract. Failure to read and understand these documents may cause you to lose valuable rights.

The effect of these documents is that you may lose the equity in your home. This agreement will not stop the foreclosure or get your house back. If you believe the foreclosure sale was improper, you should immediately seek legal advice to determine what objections to ratification or to **[**~~rescind~~**] CANCEL** rescind the order of ratification may be filed.

You may **[**~~rescind~~**] CANCEL** rescind this contract for the sale of your house without any penalty or obligation at any time within 10 days after the auditor states the account of the foreclosure sale. See the attached Notice of **[**~~Rescission~~**] CANCELLATION** Rescission form for an explanation of this right. **[**As part of**] AFTER** the **[**~~rescission~~**] CANCELLATION** rescission, you must repay

from the surplus proceeds any consideration received, directly or indirectly, together with an amount for interest calculated at the rate of 8% a year."

(c) (1) The contract shall be accompanied by a completed form in duplicate, captioned "Notice of ~~[Rescission] CANCELLATION~~ Rescission".

(2) The Notice of ~~[Rescission] CANCELLATION~~ Rescission shall:

(i) Be on a separate sheet of paper attached to the contract;

(ii) Be easily detachable; and

(iii) Contain the following statement printed in at least 15 point type:

"NOTICE OF ~~[RESCISSION] CANCELLATION~~ RESCISSION

..... (Date of contract)

You may ~~[rescind] CANCEL~~ rescind this contract for the sale of your house at any time within 10 days after the auditor states the account of the foreclosure sale.

To ~~cancel~~ **RESCIND** this transaction, mail or deliver a signed and dated copy of this Notice of ~~[Rescission] CANCELLATION~~ Rescission to ..... (Name of purchaser) at ..... (Address of purchaser, including facsimile and electronic mail) with a copy to the court appointed auditor.

I hereby ~~[rescind] CANCEL~~ rescind this transaction.

..... (Date)

..... (Homeowner's signature)".

(d) The foreclosure surplus purchaser shall provide the homeowner with a copy of the contract and the attached Notice of ~~[Rescission] CANCELLATION~~ Rescission at the time the contract is executed by all parties.

(e) The contract required by this section survives delivery of any instrument of conveyance of the residence in foreclosure, is binding in the audit, and has no effect on persons other than the parties to the contract.

(f) Any provision in a contract that attempts or purports to waive any of the rights specified in this title, consent to jurisdiction or choice of law in a state other than Maryland, consent to venue in a county other than the county in which the property is located, or impose any costs or filing fees greater than the fees required to file an action in a circuit court, is void.

7–315.

(a) In addition to any other right ~~[~~of rescission~~]~~ ~~TO CANCEL~~, a homeowner has the right to ~~[~~rescind~~] CANCEL~~ rescind any contract with a foreclosure surplus purchaser at any time within 10 days after the statement of audit account of the foreclosure sale.

(b) (1) ~~[~~Rescission~~] CANCELLATION~~ Rescission occurs when the homeowner delivers, by any means, written Notice of ~~[~~Rescission~~] CANCELLATION~~ Rescission to the address specified in the contract, with a copy to the auditor. As part of the ~~[~~rescission~~] CANCELLATION~~ rescission, the homeowner shall repay any consideration received directly or indirectly, together with interest calculated at the rate of 8% a year.

(2) On receipt of the Notice of ~~[~~Rescission~~] CANCELLATION~~ Rescission, the auditor shall restate the account. The repayment of consideration and interest by the homeowner shall be incorporated by the auditor into the revised statement of account filed with the court.

(3) Upon ratification of the amended audit, the attorney named in the mortgage, mortgage assignee for purposes of foreclosure, trustee, or substitute trustee in making distribution of the surplus funds shall comply with the revised court–approved audit.

(c) A Notice of ~~[~~Rescission~~] CANCELLATION~~ Rescission given by a homeowner need not be in the form provided with the contract and is effective, however expressed, if it indicates the intention of the homeowner to ~~[~~rescind~~] CANCEL~~ rescind the contract.

(d) The right to ~~[~~rescind~~] CANCEL~~ rescind may not be conditioned on the repayment of any funds.

(e) Within 10 days after receipt of a Notice of ~~[~~Rescission~~] CANCELLATION~~ Rescission given in accordance with this section, the foreclosure surplus purchaser shall return, without condition, the original contract and all other documents signed by the homeowner.

7–318.

(a) A person may not induce or attempt to induce a homeowner to waive the homeowner's rights under this subtitle.

(b) Any waiver by a homeowner of the provisions of this subtitle is void and unenforceable as contrary to public policy.

7–318.1.

IT IS A VIOLATION OF THIS SUBTITLE IF A FORECLOSURE CONSULTANT:

(1) FAILS TO OBTAIN A REAL ESTATE BROKER'S LICENSE AS REQUIRED UNDER § 7– 308 OF THIS SUBTITLE; OR

(2) VIOLATES ANY PROVISION OF TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

7–319.

(a) The Attorney General **OR THE COMMISSIONER** may seek an injunction to prohibit a person who has engaged or is engaging in a violation of this subtitle from engaging or continuing to engage in the violation.

(b) The court may enter any order or judgment necessary to:

(1) Prevent the use by a person of any prohibited practice;

(2) Restore to a person any money or real or personal property acquired from the person by means of any prohibited practice; or

(3) Appoint a receiver in case of willful violation of this title.

(c) In any action brought by the Attorney General **OR THE COMMISSIONER** under this section, the Attorney General **OR THE COMMISSIONER** is entitled to recover the costs of the action for the use of the State.

(D) A VIOLATION OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

7–320.

(a) In addition to any action by the Attorney General **OR THE COMMISSIONER** authorized under this subtitle and any other action otherwise authorized by law, a homeowner may bring an action for damages incurred as the result of a practice prohibited by this subtitle.

(b) A homeowner who brings an action under this section and who is awarded damages may also seek, and the court may award, reasonable attorney's fees.

(c) If the court finds that the defendant willfully or knowingly violated this subtitle, the court may award damages equal to three times the amount of actual damages.

7–321.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $10,000 or both.

(b) A person who violates this subtitle is subject to § 5–106(b) of the Courts Article.

7–322.

(A) IF A CRIMINAL PROSECUTION UNDER THIS SUBTITLE RESULTS IN A CONVICTION, THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY WHO HAS PROSECUTED THE CASE SHALL NOTIFY THE COMMISSIONER IN WRITING OF THE CONVICTION WITHIN 30 DAYS OF THE CONVICTION.

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

(1) THE NAME AND ADDRESS OF THE PERSON CONVICTED; AND

(2) A COPY OF THE JUDGMENT IN THE CRIMINAL CASE.

7–323. RESERVED.

7–324. RESERVED.

PART VI. SHORT TITLE.

7–325.

THIS SUBTITLE MAY BE CITED AS THE "PROTECTION OF HOMEOWNERS IN FORECLOSURE ACT".

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.~~

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 3, 2008.

CHAPTER 6

(House Bill 361)

AN ACT concerning

Protection of Homeowners in Foreclosure – Prohibition on Foreclosure Rescue Transactions – Enforcement

FOR the purpose of altering the applicability of certain provisions relating to the protection of homeowners in foreclosure; altering the contents of a certain foreclosure consulting contract; prohibiting a foreclosure consultant from engaging in or arranging a foreclosure rescue transaction or receiving a commission or money under certain circumstances; requiring a foreclosure consultant to be licensed as a real estate broker and to provide certain research to a homeowner under certain circumstances; repealing certain provisions concerning foreclosure reconveyances; authorizing a homeowner to ~~cancel~~ rescind a contract for the sale or transfer of a residence in default under certain circumstances; requiring a contract for the sale or transfer of a residence in default to contain certain notices and attachments under certain circumstances; imposing certain prohibitions on a purchaser of a residence in default; authorizing the Commissioner of Financial Regulation to enforce certain provisions concerning the protection of homeowners in foreclosure; making a violation of this Act an unfair or deceptive trade practice under the Maryland Consumer Protection Act; requiring the Attorney General or the State's Attorney to notify the Commissioner of certain convictions; altering and defining certain terms; making stylistic and conforming changes; making this

Act an emergency measure; and generally relating to the protection of homeowners in foreclosure.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxii)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Commercial Law
Section 13–301(14)(xxiv)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–301 to be under the amended subtitle "Subtitle 3. Protection of Homeowners in Foreclosure Act", 7–302, 7–305, 7–306, and 7–307; and 7–310 to be under the amended part "Part III. Sales or Transfers of Residences in Default", 7–311, 7–314, 7–315, 7–319, and 7–320
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Real Property
Section 7–308, 7–309, 7–310, 7–313, 7–318.1, and 7–322; and 7–325 to be under the new part "Part VI. Short Title"
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Real Property
Section 7–318 and 7–321
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxii) Section 14–1319 or § 14–1320 of this article; **[**or**]**

(XXIV) TITLE 7, SUBTITLE 3 OF THE REAL PROPERTY ARTICLE, THE PROTECTION OF HOMEOWNERS IN FORECLOSURE ACT; OR

Article – Real Property

Subtitle 3. Protection of Homeowners in Foreclosure **ACT**.

7–301.

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

(B) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

[(b)**] (C)** "Foreclosure consultant" means a person who:

(1) Solicits or contacts a homeowner in writing, in person, or through any electronic or telecommunications medium and directly or indirectly makes a representation or offer to perform any service that the person represents will:

(i) Stop, enjoin, delay, void, set aside, annul, stay, or postpone a foreclosure sale;

(ii) Obtain forbearance from any servicer, beneficiary or mortgagee;

(iii) Assist the homeowner to exercise a right of reinstatement provided in the loan documents or to refinance a loan that is in foreclosure and for which notice of foreclosure proceedings has been published;

(iv) Obtain an extension of the period within which the homeowner may reinstate the homeowner's obligation or extend the deadline to object to a ratification;

(v) Obtain a waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in **[**foreclosure**]** **DEFAULT** or contained in the mortgage;

(vi) Assist the homeowner to obtain a loan or advance of funds;

(vii) Avoid or ameliorate the impairment of the homeowner's credit resulting from the filing of an order to docket or a petition to foreclose or the conduct of a foreclosure sale;

(viii) Save the homeowner's residence from foreclosure;

(ix) Purchase or obtain an option to purchase the homeowner's residence within 20 days of an advertised or docketed foreclosure sale; **OR**

(x) Arrange for the homeowner to become a lessee or renter entitled to continue to reside in the homeowner's residence **AFTER A SALE OR TRANSFER**;

[(xi) Arrange for the homeowner to have an option to repurchase the homeowner's residence; or

(xii) Engage in any documentation, grant, conveyance, sale, lease, trust, or gift by which the homeowner clogs the homeowner's equity of redemption in the homeowner's residence;**]** or

(2) Systematically contacts owners of **[**property that court records or newspaper advertisements show are in foreclosure or in danger of foreclosure**]** **RESIDENCES IN DEFAULT TO OFFER FORECLOSURE CONSULTING SERVICES**.

[(c)**] (D)** "Foreclosure consulting contract" means a written, oral, or equitable agreement between a foreclosure consultant and a homeowner for the provision of any foreclosure consulting service **[**or foreclosure reconveyance**]**.

[(d)**] (E)** "Foreclosure consulting service" includes:

(1) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in **[**foreclosure**]** **DEFAULT**;

(2) Contacting creditors on behalf of a homeowner;

(3) Arranging or attempting to arrange for an extension of the period within which a homeowner may cure the homeowner's default and reinstate the homeowner's obligation;

(4) Arranging or attempting to arrange for any delay or postponement of the sale of a residence in **[**foreclosure**]** **DEFAULT**;

(5) Arranging or facilitating the purchase of a homeowner's equity of redemption or legal or equitable title **[**within 20 days of an advertised or docketed foreclosure sale**]**;

(6) **[**Arranging or facilitating any transaction through which a homeowner will become a lessee, optionee, life tenant, partial homeowner, or vested or contingent remainderman of the homeowner's residence;

(7)**]** Arranging or facilitating the sale of a homeowner's residence or the transfer of legal title, in any form, to another party as an alternative to foreclosure; **OR**

[(8) Arranging for a homeowner to have an option to repurchase the homeowner's residence after a sale or transfer;

(9)**] (7)** Arranging for or facilitating a homeowner remaining in the homeowner's residence **AFTER A SALE OR TRANSFER** as a tenant, renter, or lessee **UNDER TERMS PROVIDED IN A WRITTEN LEASE[**; or

(10) Arranging or facilitating any other grant, conveyance, sale, lease, trust, or gift by which a homeowner clogs the homeowner's equity of redemption in the homeowner's residence**]**.

[(e) "Foreclosure purchaser" means a person who acquires title or possession of a deed or other document to a residence in foreclosure as a result of a foreclosure reconveyance.

(f) "Foreclosure reconveyance" means a transaction involving:

(1) The transfer of title to real property by a homeowner during or incident to a proposed foreclosure proceeding, either by transfer of interest from the homeowner to another party or by creation of a mortgage, trust, or other lien or encumbrance during the foreclosure process that allows the acquirer to obtain legal or equitable title to all or part of the property; and

(2) The subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the homeowner by the acquirer or a person acting in participation with the acquirer that allows the homeowner to possess the real property following the completion of the foreclosure proceeding, including an interest in a contract for deed, purchase agreement, land installment sale, contract for sale, option to purchase, lease, trust, or other contractual arrangement.**]**

(F) "FORECLOSURE RESCUE TRANSACTION" MEANS A TRANSACTION:

(1) IN WHICH A RESIDENCE IN DEFAULT IS CONVEYED BY A HOMEOWNER WHO RETAINS A LEGAL OR EQUITABLE INTEREST IN ALL OR PART OF THE PROPERTY, INCLUDING AN INTEREST UNDER A LEASE–PURCHASE AGREEMENT, AN OPTION TO REACQUIRE THE PROPERTY, OR ANY OTHER LEGAL OR EQUITABLE INTEREST IN THE PROPERTY CONVEYED; AND

(2) THAT IS DESIGNED OR INTENDED BY THE PARTIES TO PREVENT OR DELAY ACTUAL OR ANTICIPATED FORECLOSURE PROCEEDINGS AGAINST THE RESIDENCE IN DEFAULT.

(g) "Foreclosure surplus acquisition" means a transaction involving the transfer, sale, or assignment of the surplus remaining and due the homeowner based on the audit account during a foreclosure proceeding.

(h) (1) "Foreclosure surplus purchaser" means a person who acts as the acquirer by assignment, purchase, grant, or conveyance of the surplus resulting from a foreclosure sale.

(2) "Foreclosure surplus purchaser" includes a person who acts in joint venture or joint enterprise with one or more acquirers.

(i) "Homeowner" means the record owner of a residence in **DEFAULT OR A RESIDENCE IN** foreclosure, or an individual occupying the residence under a use and possession order issued under Title 8, Subtitle 2 of the Family Law Article**[**, at the time an order to docket or a petition to foreclose is filed**]**.

(J) "RESIDENCE IN DEFAULT" MEANS RESIDENTIAL REAL PROPERTY LOCATED IN THE STATE CONSISTING OF NOT MORE THAN FOUR SINGLE FAMILY DWELLING UNITS, ONE OF WHICH IS OCCUPIED BY THE OWNER, OR THE OWNER'S SPOUSE OR FORMER SPOUSE UNDER A USE AND POSSESSION ORDER ISSUED UNDER TITLE 8, SUBTITLE 2 OF THE FAMILY LAW ARTICLE, AS THE INDIVIDUAL'S PRINCIPAL PLACE OF RESIDENCE, AND ON WHICH THE MORTGAGE IS AT LEAST ~~30~~ 60 DAYS IN DEFAULT.

[(j)**] (K)** "Residence in foreclosure" means residential real property **LOCATED IN THE STATE** consisting of not more than four single family dwelling units, one of which is occupied by the owner, or the owner's spouse or former spouse under a use and possession order issued under Title 8, Subtitle 2 of the Family Law Article, as the individual's principal place of residence, and against which an order to docket or a petition to foreclose has been filed.

(L) "SETTLEMENT" MEANS AN IN–PERSON, FACE–TO–FACE MEETING WITH THE HOMEOWNER TO COMPLETE FINAL DOCUMENTS INCIDENT TO THE SALE OR TRANSFER OF REAL PROPERTY OR THE CREATION OF A MORTGAGE OR EQUITABLE INTEREST IN REAL PROPERTY, CONDUCTED BY A SETTLEMENT AGENT, DURING WHICH THE HOMEOWNER MUST BE PRESENTED WITH A COMPLETED COPY OF THE HUD–1 SETTLEMENT FORM.

7–302.

(a) Except as provided in subsection (b) of this section, this subtitle does not apply to:

(1) An individual admitted to practice law in the State, while performing any activity related to the individual's regular practice of law in the State;

(2) **[**A person who holds or ~~is owed an obligation~~ **SERVICES A MORTGAGE LOAN** secured by a ~~lien on any~~ residence in ~~foreclosure~~ **DEFAULT** while the person performs ~~services in connection with the obligation or lien, if the obligation or lien~~ **SERVICING, COLLECTION, AND LOSS MITIGATION ACTIVITIES IN REGARD TO THAT MORTGAGE LOAN, PROVIDED THE MORTGAGE LOAN** did not arise as a result of a foreclosure ~~reconveyance~~ **CONSULTING CONTRACT**;

(3)~~]~~ (i) A person doing business under any law of this State or the United States regulating banks, trust companies, savings and loan associations, credit unions, or insurance companies, while the person performs services as a part of the person's normal business activities; and

(ii) Any subsidiary, affiliate, or agent of a person described in item (i) of this item, while the subsidiary, affiliate, or agent performs services as a part of the subsidiary's, affiliate's, or agent's normal business activities;

~~[~~(4)~~]~~ **~~(3)~~** A judgment creditor of the homeowner, if the judgment creditor's claim accrued before the written notice of foreclosure sale required under § 7–105(b) of this title is sent;

[(5) A title insurer authorized to conduct business in the State, while performing title insurance and settlement services;

(6) A title insurance producer licensed in the State, while performing services in accordance with the person's license;**]**

~~(7)~~ **(5)** A person licensed as a ~~mortgage broker or~~ mortgage lender under Title 11, Subtitle 5 of the Financial Institutions Article while ~~acting~~**:**

(I) ACTING under the authority of that ~~license;~~ **LICENSE IN REGARD TO A RESIDENCE IN DEFAULT; AND**

(II) ARRANGING FOR A REFINANCING OF A MORTGAGE LOAN FOR THE RESIDENCE IN DEFAULT;

~~(8)~~ **(6)** A person licensed as a real estate broker, associate real estate broker, or real estate salesperson under Title 17 of the Business Occupations and Professions Article~~, while the person engages in any activity for which the person is licensed under those provisions so long as any conveyance or transfer of deed, title, or establishment of equitable interest is done through a settlement as defined in § 7–311(a)(5) of this subtitle;~~ **]** ~~or~~ **ONLY:**

(I) WHILE THE PERSON:

1. ENGAGES IN ANY ACTIVITY FOR WHICH THE PERSON IS LICENSED UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

2. DOES NOT VIOLATE ANY PROVISION OF § 7–307 OF THIS SUBTITLE OR TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

(II) IF THE RESIDENCE IN DEFAULT FOR WHICH THE PERSON IS CONDUCTING A LICENSED ACTIVITY:

1. IS LISTED IN THE LOCAL MULTIPLE LISTING SERVICE; AND

2. IS SOLD OR TRANSFERRED THROUGH A SETTLEMENT, INCLUDING THE CONVEYANCE OR TRANSFER OF DEED, TITLE, OR ESTABLISHMENT OF EQUITABLE INTEREST; OR

[(9)**]** ~~**(4)**~~ **(7)** A nonprofit organization that solely offers counseling or advice to homeowners in foreclosure or loan default, if the organization is not directly or indirectly related to and does not contract for services with for–profit lenders ~~or foreclosure purchasers~~.

(b) This subtitle does apply to an individual who:

(1) Is functioning in a position listed under subsection (a) of this section; and

(2) Is engaging in activities or providing services designed or intended to transfer title to a residence in **[**foreclosure**]** **DEFAULT** directly or indirectly to that individual, **A RELATIVE OF THAT INDIVIDUAL,** or an agent or affiliate of that individual.

7–305.

(a) In addition to any other right under law to cancel ~~[~~or rescind~~]~~ a contract, a homeowner has the right to**[**:

(1) Rescind**]** ~~**CANCEL**~~ **RESCIND** a foreclosure consulting contract at any time**[**; and

(2) Rescind a foreclosure reconveyance at any time before midnight of the 3rd business day after any conveyance or transfer in any manner of legal or equitable title to a residence in foreclosure**]**.

(b) ~~**[**~~Rescission~~**]** CANCELLATION~~ Rescission occurs when the homeowner gives written notice of ~~**[**rescission**]** **CANCELLATION**~~ rescission to the foreclosure consultant at the address specified in the contract or through any facsimile or electronic mail address identified in the contract or other materials provided to the homeowner by the foreclosure consultant.

(c) Notice of ~~**[**rescission**]** **CANCELLATION**~~ rescission, if given by mail, is effective when deposited in the United States mail, properly addressed, with postage prepaid.

(d) Notice of ~~**[**rescission**]** **CANCELLATION**~~ rescission need not be in the form provided with the contract and is effective, however expressed, if it indicates the intention of the homeowner to ~~**[**rescind**]** **CANCEL**~~ rescind the foreclosure consulting contract **[**or foreclosure reconveyance**]**.

(e) **[**As part of**]** **AFTER** the ~~**[**rescission**]** **CANCELLATION**~~ rescission of a foreclosure consulting contract **[**or foreclosure reconveyance**]**, the homeowner shall repay, within 60 days from the date of ~~**[**rescission**]** **CANCELLATION**~~ rescission, any funds paid or advanced by the foreclosure consultant or anyone working with the foreclosure consultant under the terms of the foreclosure consulting contract **[**or foreclosure reconveyance**]**, together with interest calculated at the rate of 8% a year.

(f) The right to **[**~~rescind~~**] CANCEL** rescind may not be conditioned on the repayment of any funds.

7–306.

(a) A foreclosure consulting contract shall:

(1) Be provided to the homeowner for review before signing;

(2) Be printed in at least 12 point type and written in the same language that is used by the homeowner and was used in discussions with the foreclosure consultant to describe the consultant's services or to negotiate the contract;

(3) Fully disclose the exact nature of the foreclosure consulting services to be provided, including any **[**foreclosure reconveyance**]** **SALE OR TENANCY** that may be involved, and the total amount and terms of any compensation **FROM ANY SOURCE** to be received by the foreclosure consultant or anyone working in association with the consultant;

(4) **STATE THE DUTY OF THE FORECLOSURE CONSULTANT TO PROVIDE THE HOMEOWNER WITH WRITTEN COPIES OF ANY RESEARCH THE FORECLOSURE CONSULTANT HAS REGARDING THE VALUE OF THE HOMEOWNER'S RESIDENCE IN DEFAULT, INCLUDING ANY INFORMATION ON SALES OF COMPARABLE PROPERTIES OR ANY APPRAISALS;**

(5) Be dated and personally signed by the homeowner and the foreclosure consultant and be witnessed and acknowledged by a notary public appointed and commissioned by the State; and

[(5)**] (6)** Contain the following notice, which shall be printed in at least 14 point boldface type, completed with the name of the foreclosure consultant, and located in immediate proximity to the space reserved for the homeowner's signature:

"NOTICE REQUIRED BY MARYLAND LAW

..... (Name) or anyone working for him or her CANNOT ask you to sign or have you sign any lien, mortgage, or deed as part of signing this agreement unless the terms of the transfer are specified in this document and you are given a separate explanation of the precise nature of the transaction. **THE SEPARATE EXPLANATION MUST INCLUDE: HOW MUCH MONEY YOU MUST PAY; HOW MUCH MONEY YOU WILL RECEIVE, IF ANY; AND HOW MUCH**

MONEY THE FORECLOSURE CONSULTANT WILL RECEIVE FROM ANY SOURCE.

….. (Name) or anyone working for him or her CANNOT guarantee you that they will be able to refinance your home or arrange for you to keep your home. Continue making mortgage payments until a refinancing, if applicable, is approved.

YOU HAVE THE RIGHT TO ~~CANCEL~~ RESCIND THIS FORECLOSURE CONSULTING CONTRACT AT ANY TIME BY INFORMING THE FORECLOSURE CONSULTANT THAT YOU WANT TO ~~CANCEL~~ RESCIND THE CONTRACT. SEE THE ATTACHED NOTICE OF ~~CANCELLATION~~ RESCISSION FORM FOR AN EXPLANATION OF THIS RIGHT. AFTER ANY ~~CANCELLATION~~ RESCISSION, YOU MUST REPAY, WITHIN 60 DAYS, ANY MONEY SPENT ON YOUR BEHALF AS A RESULT OF THIS AGREEMENT, ALONG WITH INTEREST CALCULATED AT THE RATE OF 8% A YEAR.

If a **CONTRACT TO SELL OR** transfer **[**of**]** the deed or title to your property is involved in any way, you may **[**~~rescind the transfer~~**] ~~CANCEL~~** rescind **THAT CONTRACT AT** any time within **[**3**] 5** days after the date you sign **[**the deed or other document of sale or transfer**] THAT CONTRACT AND YOU ARE INFORMED OF THIS RIGHT**. **[**See the attached Notice of Rescission form for an explanation of this right.**] [**As part of**] AFTER** any **[**~~rescission~~**] ~~CANCELLATION~~** rescission, you must repay, within 60 days, any money spent on your behalf as a result of this agreement, along with interest calculated at the rate of 8% a year.

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE SIGNING.".

(b) The contract shall contain on the first page, in at least 12 point type size:

(1) The name and address of the foreclosure consultant to which the notice of ~~cancellation~~ **RESCISSION** is to be mailed; and

(2) The date the homeowner signed the contract.

(c) (1) The contract shall be accompanied by a completed form in duplicate, captioned "NOTICE OF **[**~~RESCISSION~~**] ~~CANCELLATION~~** RESCISSION".

(2) The Notice of **[**~~Rescission~~**] ~~CANCELLATION~~** Rescission shall:

(i) Be on a separate sheet of paper attached to the contract;

(ii) Be easily detachable; and

(iii) Contain the following statement printed in at least 15 point type:

"NOTICE OF ~~[~~RESCISSION~~]~~ **~~CANCELLATION~~** RESCISSION

(Date of Contract)

You may ~~cancel [or rescind]~~ rescind this **FORECLOSURE CONSULTING** contract, without any penalty, at any time.

If you want to **[**end**]** ~~**CANCEL**~~ **RESCIND** this contract, mail or deliver a signed and dated copy of this Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission, or any other written notice indicating your intent to ~~**[**rescind**]** **CANCEL**~~ rescind to (name of foreclosure consultant) at (address of foreclosure consultant, including facsimile and electronic mail).

[As part of**]** **AFTER** any ~~**[**rescission**] CANCELLATION**~~ rescission, you (the homeowner) must repay any money spent on your behalf as a result of this agreement, within 60 days, along with interest calculated at the rate of 8% a year.

This is an important legal contract and could result in the loss of your home. Contact an attorney before signing.

NOTICE OF ~~**[**RESCISSION**] CANCELLATION**~~ RESCISSION

TO: (name of foreclosure consultant)

(address of foreclosure consultant, including facsimile and electronic mail)

I hereby ~~**[**rescind**] CANCEL**~~ rescind this contract.

….. (Date)

…….. (Homeowner's signature)".

(d) The foreclosure consultant shall provide the homeowner with a signed and dated copy of the **FORECLOSURE CONSULTING** contract and the attached Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission immediately upon execution of the contract.

(e) The time during which the homeowner may **[**~~rescind~~**] ~~CANCEL~~** rescind the **FORECLOSURE CONSULTING** contract does not begin to run until the foreclosure consultant has complied with this section.

(f) Any provision in a foreclosure consulting contract that attempts or purports to waive any of the rights specified in this title, consent to jurisdiction for litigation or choice of law in a state other than Maryland, consent to venue in a county other than the county in which the property is located, or impose any costs or filing fees greater than the fees required to file an action in a circuit court, is void.

7–307.

A foreclosure consultant may not:

(1) **ENGAGE IN, ARRANGE, OFFER, PROMOTE, PROMISE, SOLICIT, PARTICIPATE IN, ASSIST WITH, OR CARRY OUT A FORECLOSURE RESCUE TRANSACTION;**

(2) Claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented that the foreclosure consultant would perform;

[(2)**] (3)** Claim, demand, charge, collect, or receive any interest or any other compensation for any loan that the foreclosure consultant makes to the homeowner that exceeds 8% a year;

[(3)**] (4)** Take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation;

[(4)**] (5)** Receive any consideration from any third party in connection with foreclosure consulting services provided to a homeowner unless the consideration**:**

(I) [is**] IS** first fully disclosed in writing to the homeowner;

(II) IS CLEARLY LISTED ON ANY SETTLEMENT DOCUMENTS; AND

(III) IS NOT IN VIOLATION OF ANY PROVISION OF THIS SUBTITLE;

(6) RECEIVE A COMMISSION, REGARDLESS OF HOW DESCRIBED, FOR THE SALE OF A RESIDENCE IN DEFAULT THAT EXCEEDS 8% OF THE SALES PRICE;

(7) RECEIVE ANY MONEY TO BE HELD IN ESCROW OR ON A CONTINGENT BASIS ON BEHALF OF THE HOMEOWNER;

[(5)**] (8)** Acquire any interest, directly or indirectly, or by means of a subsidiary, affiliate, or corporation in which the foreclosure consultant or a member of the foreclosure consultant's immediate family is a primary stockholder, in a residence in **[**foreclosure**] DEFAULT** from a homeowner with whom the foreclosure consultant has contracted;

[(6)**] (9)** Take any power of attorney from a homeowner for any purpose, except to inspect documents as provided by law; or

[(7)**] (10)** Induce or attempt to induce any homeowner to enter into a foreclosure consulting contract that does not comply in all respects with this subtitle.

7–308.

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

(2) "LICENSE" HAS THE MEANING STATED IN § 17–101(G) OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(3) "PROVIDE REAL ESTATE BROKERAGE SERVICES" HAS THE MEANING STATED IN § 17–101(L) OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(B) A FORECLOSURE CONSULTANT WHO PROVIDES REAL ESTATE BROKERAGE SERVICES SHALL BE LICENSED AS REQUIRED UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

(C) A FORECLOSURE CONSULTANT SHALL PRESENT A COPY OF THE LICENSE TO A HOMEOWNER NO LATER THAN THE TIME A FORECLOSURE CONSULTING CONTRACT IS EXECUTED.

7–309.

(A) A FORECLOSURE CONSULTANT HAS A DUTY TO PROVIDE THE HOMEOWNER WITH WRITTEN COPIES OF ANY RESEARCH THE FORECLOSURE CONSULTANT HAS REGARDING THE VALUE OF THE HOMEOWNER'S RESIDENCE IN DEFAULT, INCLUDING ANY INFORMATION ON SALES OF COMPARABLE PROPERTIES OR ANY APPRAISALS.

(B) A FORECLOSURE CONSULTANT OWES THE SAME DUTY OF CARE TO A HOMEOWNER AS A LICENSED REAL ESTATE BROKER OWES TO A CLIENT UNDER § 17–532 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

Part III. **[**Foreclosure Purchases**] SALES OR TRANSFERS OF RESIDENCES IN DEFAULT**.

7–310.

(A) IN ADDITION TO ANY OTHER RIGHT UNDER LAW TO ~~CANCEL~~ RESCIND A CONTRACT, ~~IF A CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT IS INCLUDED IN A FORECLOSURE CONSULTING CONTRACT OR ARRANGED BY A FORECLOSURE CONSULTANT,~~ THE HOMEOWNER OF ~~THE~~ A RESIDENCE IN DEFAULT HAS THE RIGHT TO ~~CANCEL~~ RESCIND ~~THE~~ A CONTRACT FOR THE SALE OR TRANSFER OF THE RESIDENCE IN DEFAULT WITHIN 5 DAYS AFTER THE EXECUTION OF THE CONTRACT.

(B) ANY PROVISION IN A CONTRACT OR OTHER AGREEMENT CONCERNING A SALE OR TRANSFER OF A RESIDENCE IN DEFAULT THAT ATTEMPTS OR PURPORTS TO WAIVE THE HOMEOWNER'S RIGHTS UNDER THIS TITLE, CONSENT TO JURISDICTION FOR LITIGATION OR CHOICE OF LAW IN A STATE OTHER THAN MARYLAND, CONSENT TO VENUE IN A COUNTY OTHER THAN THE COUNTY IN WHICH THE PROPERTY IS LOCATED, OR IMPOSE ANY COSTS OR FILING FEES GREATER THAN THE FEES REQUIRED TO FILE AN ACTION IN A CIRCUIT COURT, IS VOID.

(C) EXCEPT WHEN A PRIMARY MORTGAGE LENDER TAKES A DEED IN LIEU OF FORECLOSURE, A SALE OR TRANSFER OF A RESIDENCE IN DEFAULT MAY NOT BE EXECUTED USING A QUITCLAIM DEED.

(D) A NOTICE OF RESCISSION UNDER THIS SECTION:

(1) SHALL BE IN WRITING BUT NEED NOT TAKE ANY PARTICULAR FORM SPECIFIED IN THIS SUBTITLE OR ANY FORM CONTAINED IN ANY AGREEMENT WITH THE PURCHASER OR TRANSFEREE; AND

(2) IS EFFECTIVE, HOWEVER EXPRESSED, IF IT INDICATES THE INTENTION OF THE HOMEOWNER TO RESCIND THE CONTRACT.

(E) THE RIGHT TO RESCIND MAY NOT BE CONDITIONED ON THE REPAYMENT OF ANY FUNDS, PROVIDED HOWEVER THAT ANY DEBT EXISTING PRIOR TO A RESCISSION SHALL CONTINUE TO EXIST.

(F) WITHIN 10 DAYS AFTER RECEIPT OF A NOTICE OF RESCISSION, THE PURCHASER OR TRANSFEREE SHALL RETURN, WITHOUT CONDITION, ANY ORIGINAL DEED, TITLE, CONTRACT, AND ANY OTHER DOCUMENT SIGNED BY THE HOMEOWNER.

(G) DURING THE 5–DAY RESCISSION PERIOD, A DEED OR OTHER DOCUMENT AFFECTING TITLE TO THE HOMEOWNER'S RESIDENCE IN DEFAULT MAY NOT BE RECORDED.

[7–310.**] 7–311.**

(A) THIS SECTION APPLIES TO A CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT THAT IS INCLUDED IN A FORECLOSURE CONSULTING CONTRACT OR ARRANGED BY A FORECLOSURE CONSULTANT.

[(a)**] (B)** **[**If a foreclosure reconveyance is included in a foreclosure consulting contract or arranged after the execution of a foreclosure consulting contract, the foreclosure**] IN ADDITION TO ANY OTHER REQUIREMENT UNDER LAW, THE** purchaser **OF A RESIDENCE IN DEFAULT** shall provide the homeowner with a document entitled "Notice **[**of Transfer of Deed or Title**] TO HOMEOWNER**".

[(b)**] (C)** The document entitled "Notice **[**of Transfer of Deed or Title**] TO HOMEOWNER**" shall:

(1) Contain the **[**entire agreement of the parties**] TOTAL SALES PRICE OF THE RESIDENCE IN DEFAULT AND AN EXPLANATION OF THE DISTRIBUTION OF THE PROCEEDS OF THE SALE, INCLUDING ANY PAYMENTS TO ANY PARTIES, INCLUDING THE FORECLOSURE CONSULTANT**;

(2) Be printed in 12 point type and written in the same language that is used by the homeowner and was used in discussions to describe the foreclosure consultant's or **[**foreclosure**]** purchaser's services or to negotiate the transfer or sale of the property;

(3) Be dated and personally signed by the homeowner and the **[**foreclosure**]** purchaser and witnessed and acknowledged by a notary public appointed and commissioned by the State;

(4) Describe in detail the terms of any **[**foreclosure conveyance**] SALE OR TRANSFER** including:

(i) The name, business address, telephone number, and facsimile number of the person to whom the deed or title will be **SOLD OR** transferred;

(ii) The address of the residence in **[**foreclosure**] DEFAULT**;

(iii) The total consideration to be given **OR RECEIVED, DIRECTLY OR INDIRECTLY,** by the **[**foreclosure**] HOMEOWNER,** purchaser, **AND** the foreclosure consultant**[**, and any other party as a result of the transfer**]**;

(iv) The time at which title is to be **SOLD OR** transferred to the **[**foreclosure**]** purchaser **[**and the terms of any conveyance**]**; **AND**

(v) Any financial or legal obligations **[**that**] TO WHICH** the homeowner may remain subject **[**to, including a description of any mortgages, liens, or other obligations that will remain in place;

(vi) A description of any services of any nature that the foreclosure purchaser will perform for the homeowner before or after the sale or transfer;

(vii) A complete description of the terms of any related agreement designed to allow the homeowner to remain in the home, including the terms of any rental agreement, repurchase agreement, contract for deed, land installment contract, or option to buy, and any provisions for eviction or removal of the homeowner in the case of late payment; and

(viii) How any repurchase price or fee associated with any transfer of title or deed back to the homeowner will be calculated.**]; AND**

(5) Contain the following statement printed in at least 14 point boldface type and located in immediate proximity to the space reserved for the homeowner's signature:

"If you change your mind about **SELLING OR** transferring ownership of your property, you, the homeowner, may ~~**[rescind] CANCEL**~~ rescind the **CONTRACT FOR THE SALE OR** transfer of the deed or title to your property any

time within the next **[**3**]** **5** days. **SEE THE ATTACHED NOTICE OF RIGHT TO ~~CANCEL~~ RESCIND CONTRACT FOR THE SALE OR TRANSFER OF DEED OR TITLE. [**As part of**]** **AFTER** any **~~[rescission]~~ ~~CANCELLATION~~** rescission, you must repay, within 60 days, any money spent on your behalf as a result of this agreement, along with interest calculated at the rate of 8% a year.

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE SIGNING.".

[(c)**]** **(D)** (1) **[**If a foreclosure reconveyance is included in a foreclosure consulting contract or arranged after the execution of a foreclosure consulting contract, the foreclosure**]** **THE** purchaser shall provide the homeowner with a document entitled "NOTICE OF RIGHT TO ~~CANCEL~~ **RESCIND CONTRACT FOR THE SALE OR** TRANSFER OF DEED OR TITLE".

(2) The **DOCUMENT ENTITLED "**NOTICE OF RIGHT TO ~~CANCEL~~ **RESCIND CONTRACT FOR THE SALE OR** TRANSFER OF DEED OR TITLE**"** shall:

(i) Be a separate document and not printed on the back of any other document; and

(ii) Contain the following statement printed in at least 14 point type:

"NOTICE OF RIGHT TO ~~CANCEL~~ **RESCIND CONTRACT FOR THE SALE OR** TRANSFER OF DEED OR TITLE

(Date)

You may ~~cancel [or rescind]~~ rescind the **CONTRACT FOR THE SALE OR** transfer of ownership of your property **[**through the transfer of a deed or title**]** within **[**3**]** **5** business days after the date you sign this document **AND ARE NOTIFIED OF THIS RIGHT**.

To **~~[rescind]~~ ~~CANCEL~~** rescind this **[**transaction**]** **CONTRACT**, mail or deliver a signed and dated copy of this Notice, or any other written notice expressing a similar intent to (name of **[**foreclosure consultant**]** **PURCHASER**) at (address of **[**foreclosure consultant**]** **PURCHASER**, including facsimile and electronic mail).

[As part of**] AFTER** any ~~**[**rescission**] CANCELLATION**~~ rescission, you (the homeowner) must repay any money spent on your behalf as a result of this agreement, within 60 days, along with interest calculated at the rate of 8% a year.

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE SIGNING.

NOTICE OF ~~**[**RESCISSION**] CANCELLATION**~~ RESCISSION

TO: (name of **[**foreclosure consultant**] PURCHASER**)

(address of **[**foreclosure consultant**] PURCHASER**, including facsimile and electronic mail)

I hereby ~~**[**rescind**] CANCEL**~~ rescind the **CONTRACT FOR THE SALE OR** transfer of deed or title to my property. Please return all executed documents to me.

…… (Date)

…… (Homeowner's signature)".

[(d)**] (E)** The **[**foreclosure**]** purchaser shall provide the homeowner with a copy of the Notice of Right to ~~Cancel~~ **RESCIND CONTRACT FOR THE SALE OR** Transfer of Deed or Title immediately on execution of any document that includes **[**a foreclosure reconveyance**] AN AGREEMENT TO SELL OR TRANSFER**.

[(e)**] (F)** The time during which the homeowner may ~~**[**rescind**] CANCEL**~~ rescind the contract **FOR THE SALE** or transfer does not begin to run until the **[**foreclosure**]** purchaser has complied with this **[**section**] PART**.

~~**[**(f)**] (G)** Any provision in a **[**foreclosure consulting**]** contract or other agreement concerning a **[**foreclosure reconveyance**] SALE OR TRANSFER OF A RESIDENCE ON DEFAULT** that attempts or purports to waive the homeowner's rights under this **[**section**] TITLE**, consent to jurisdiction for litigation or choice of law in a state other than Maryland, consent to venue in a county other than the county in which the property is located, or impose any costs or filing fees greater than the fees required to file an action in a circuit court, is void.~~

~~**[**(g)**] (H)** A **[**foreclosure reconveyance**] SALE OR TRANSFER OF A RESIDENCE IN DEFAULT** may not be carried out using**:**~~

~~**(1)** **[**a**]** **A** power of attorney from the homeowner**; OR**~~

~~**(2)** **A QUIT CLAIM DEED.**~~

~~**[**(h)**] (I)** A notice of **[**rescission**] CANCELLATION** need not take the particular form specified in this **[**subtitle**] SECTION** or any form contained in any agreement with the **[**foreclosure consultant or foreclosure**]** purchaser and is effective, however expressed, if it indicates the intention of the homeowner to **[**rescind**] CANCEL** the **[**reconveyance agreement**] CONTRACT.**~~

~~**[**(i)**] (J)** The right to **[**rescind**] CANCEL** may not be conditioned on the repayment of any funds.~~

~~**[**(j)**] (K)** Within 10 days after receipt of a notice of **[**rescission**] CANCELLATION** given in accordance with this **[**subtitle**] SECTION**, the **[**foreclosure**]** purchaser shall return, without condition, any original deed, title, contract, and any other document signed by the homeowner.~~

~~**[**(k)**] (L)** During the **[**3–day**] 5–DAY [**rescission**] CANCELLATION** period, a deed or other document affecting title to the homeowner's residence **IN DEFAULT** may not be recorded.~~

[7–311.**] 7–312.**

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

(2) "Primary housing expenses" means the total amount required to pay regular principal, interest, rent, utilities, hazard insurance, real estate taxes, and association dues on a property.

(3) "Resale" means a bona fide market sale of property subject to a foreclosure reconveyance by the foreclosure purchaser to an unaffiliated third party.

(4) "Resale price" means the gross sale price of a property on resale.

(5) "Settlement" means an in–person, face–to–face meeting with the homeowner to complete final documents incident to the sale or transfer of real property, or the creation of a mortgage or equitable interest in real property, conducted by a settlement agent who is not employed by or an affiliate of the foreclosure purchaser, during which the homeowner must be presented with a completed copy of the HUD–1 Settlement Form.

(b)**]** A **[**foreclosure**]** purchaser **OF A RESIDENCE IN DEFAULT** may not:

(1) **[**Enter into, or attempt to enter into, a foreclosure reconveyance with a homeowner unless:

(i) The foreclosure purchaser verifies and can demonstrate that the homeowner has or will have a reasonable ability to pay for the subsequent reconveyance of the property back to the homeowner on completion of the terms of a foreclosure conveyance, or, if the foreclosure conveyance provides for a lease with an option to repurchase the property, the homeowner has or will have a reasonable ability to make the lease payments and repurchase the property within the term of the option to repurchase;

(ii) The foreclosure purchaser and the homeowner complete a formal settlement before any transfer of an interest in the property is effected; and

(iii) The foreclosure**]** ~~**COMPLETE A SALE OR TRANSFER OF THE RESIDENCE IN DEFAULT UNTIL THE**~~ purchaser complies with the requirements of the federal Home Ownership Equity Protection Act, 15 U.S.C. 1639, and its implementing regulations **[**for any foreclosure reconveyance in which the homeowner obtains a vendee interest in a contract for deed**]**;

(2) **[**Fail to:

(i) Ensure that title to the property has been reconveyed to the homeowner in a timely manner if this subtitle or the terms of a foreclosure reconveyance agreement require a reconveyance; or

(ii) Make payment to the homeowner within 90 days of any resale of the property so that the homeowner receives cash payments or consideration in an amount equal to at least 82% of the net proceeds from any resale of the property should a property subject to a foreclosure reconveyance be sold within 18 months after entering into a foreclosure reconveyance agreement;

(3) Enter into repurchase or lease terms as part of the foreclosure conveyance that are unfair or commercially unreasonable, or engage in any other unfair conduct;

(4)**]** Represent, directly or indirectly, that:

(i) The **[**foreclosure**]** purchaser is acting as an advisor or a consultant, or in any other manner represent that the **[**foreclosure**]** purchaser is acting on behalf of the homeowner;

(ii) The **[**foreclosure**]** purchaser has certification or licensure that the **[**foreclosure**]** purchaser does not have;

(iii) The **[**foreclosure**]** purchaser is assisting the homeowner to "save the house" or use a substantially similar phrase; or

(iv) The **[**foreclosure**]** purchaser is assisting the homeowner in preventing a foreclosure if the result of the transaction is that the homeowner will **[**not complete a redemption of the property**]** **NO LONGER OWN THE PROPERTY**;

[(5)**]** ~~**(3)**~~ **(2)** Make any other statements, directly or by implication, or engage in any other conduct that is false, deceptive, or misleading, or that has the likelihood to cause confusion or misunderstanding, including statements regarding the value of the residence in **[**foreclosure**]** **DEFAULT**, the amount of proceeds the homeowner will receive after a **[**foreclosure**]** sale **OR TRANSFER**, any contract term, or the homeowner's rights or obligations incident to or arising out of the **[**foreclosure reconveyance**]** **SALE OR TRANSFER**; or

[(6)**]** ~~**(4)**~~ **(3)** Until the homeowner's right to ~~**[**rescind or**]** cancel~~ rescind the transaction has expired:

(i) Record any document, including an instrument of conveyance, signed by the homeowner; or

(ii) Transfer or encumber or purport to transfer or encumber any interest in the residence in **[**foreclosure**]** **DEFAULT** to any third party.

[(c) For purposes of subsection (b)(1) of this section, there is a rebuttable presumption that:

(1) A homeowner has a reasonable ability to pay for a subsequent reconveyance of the property if the homeowner's payments for primary housing expenses and regular principal and interest payments on other personal debt, on a monthly basis, do not exceed 60% of the homeowner's monthly gross income; and

(2) The foreclosure purchaser has not verified reasonable payment ability if the foreclosure purchaser has not obtained documents other than a statement by the homeowner of assets, liabilities, and income.

(d) (1) The foreclosure purchaser shall make a detailed accounting of the basis for the amount of a payment made to the homeowner of a property resold within 18 months after entering into a foreclosure reconveyance agreement, in accordance with (b)(2)(ii) of this section.

(2) The accounting shall be on a form prescribed by the Attorney General in consultation with the Commissioner of Financial Regulation and shall include detailed documentation of expenses and other consideration paid by the foreclosure purchaser and deducted from the resale price.

(e) A bona fide purchaser for value or bona fide lender for value who enters into a transaction with a homeowner or a foreclosure purchaser when a foreclosure consulting contract is in effect or during the period when a foreclosure reconveyance may be rescinded, without notice of those facts, receives good title to the property, free and clear of the right of the parties to the foreclosure consulting contract or the right of the homeowner to rescind the foreclosure reconveyance.

(f) This subtitle may not be construed to impose any duty on a purchaser, title insurer, or title insurance producer with respect to the application of the proceeds of a sale of property by a foreclosure purchaser.**]**

7–313.

(A) (1) IF A TENANCY AGREEMENT IS INCLUDED IN A CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT, THE PURCHASER SHALL PROVIDE THE HOMEOWNER WITH A DOCUMENT ENTITLED "STATEMENT ABOUT TENANCY" AT THE TIME THE CONTRACT IS EXECUTED.

(2) THE DOCUMENT ENTITLED "STATEMENT ABOUT TENANCY" SHALL:

(I) BE ON A SEPARATE SHEET OF PAPER ATTACHED TO THE CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT;

(II) BE DATED AND PERSONALLY SIGNED BY THE HOMEOWNER AND THE PURCHASER AND BE WITNESSED AND ACKNOWLEDGED BY A NOTARY PUBLIC APPOINTED AND COMMISSIONED BY THE STATE;

(III) CONTAIN A STATEMENT INFORMING THE HOMEOWNER OF THE HOMEOWNER'S RIGHT TO A COPY OF A SIGNED LEASE; AND

(IV) CONTAIN THE FOLLOWING STATEMENT PRINTED IN AT LEAST 15 POINT TYPE:

"STATEMENT ABOUT TENANCY

(DATE OF CONTRACT)

I AGREE TO SELL MY HOME. I UNDERSTAND THAT I WILL NO LONGER HAVE AN OWNERSHIP INTEREST IN OR ANY OTHER RIGHT TO OWN THIS PROPERTY. EVEN THOUGH I MAY BE ABLE TO LIVE ON THE PREMISES AS A TENANT, I WILL HAVE NO RIGHT TO REPURCHASE THIS PROPERTY OR TO OBTAIN ANY OTHER KIND OF OWNERSHIP INTEREST. IF I DO NOT PAY THE RENT AS AGREED, I MAY BE SUBJECT TO EVICTION. AS A TENANT, I AM ENTITLED TO RECEIVE A WRITTEN LEASE FROM THE NEW OWNER OF THE PROPERTY.".

(B) THE PURCHASER SHALL PROVIDE THE HOMEOWNER WITH A SIGNED AND DATED COPY OF THE DOCUMENT ENTITLED "STATEMENT ABOUT TENANCY" IMMEDIATELY UPON EXECUTION OF THE CONTRACT FOR THE SALE OR TRANSFER OF THE RESIDENCE IN DEFAULT.

(C) THE TIME DURING WHICH THE HOMEOWNER MAY ~~CANCEL~~ RESCIND THE CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT UNDER § 7–310 OF THIS SUBTITLE DOES NOT BEGIN TO RUN UNTIL THE PURCHASER HAS COMPLIED WITH THIS SECTION.

7–314.

(a) Each foreclosure surplus acquisition shall be in the form of a written contract.

(b) Each foreclosure surplus acquisition contract shall:

(1) Contain the entire agreement of the parties;

(2) Be printed in at least 12 point type, in the same language that is used by the homeowner and was used by the foreclosure surplus purchaser and the homeowner to negotiate the sale of the residence in foreclosure;

(3) Be fully completed, dated, and personally signed by the homeowner and the foreclosure surplus purchaser before the statement of account has been referred to the auditor; and

(4) Include:

(i) The name, business address, and telephone number of the foreclosure surplus purchaser;

(ii) The address of the residence in foreclosure;

(iii) The total consideration to be given by the foreclosure surplus purchaser in connection with or incident to the transaction;

(iv) A complete description of the terms of payment or other consideration, including any services of any nature that the foreclosure surplus purchaser represents the foreclosure surplus purchaser will perform for the homeowner before or after the sale; and

(v) The following notice, which shall be printed in at least 14 point boldface type, completed with the name of the foreclosure surplus purchaser, and located in immediate proximity to the space reserved for the homeowner's signature:

"NOTICE REQUIRED BY MARYLAND LAW

If you have any questions about this document, seek legal counsel before signing. This is an important legal contract. Failure to read and understand these documents may cause you to lose valuable rights.

The effect of these documents is that you may lose the equity in your home. This agreement will not stop the foreclosure or get your house back. If you believe the foreclosure sale was improper, you should immediately seek legal advice to determine what objections to ratification or to ~~**[**rescind**] CANCEL**~~ rescind the order of ratification may be filed.

You may ~~**[**rescind**] CANCEL**~~ rescind this contract for the sale of your house without any penalty or obligation at any time within 10 days after the auditor states the account of the foreclosure sale. See the attached Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission form for an explanation of this right. **[**As part of**] AFTER** the ~~**[**rescission**] CANCELLATION**~~ rescission, you must repay from the surplus proceeds any consideration received, directly or indirectly, together with an amount for interest calculated at the rate of 8% a year."

(c) (1) The contract shall be accompanied by a completed form in duplicate, captioned "Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission".

(2) The Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission shall:

(i) Be on a separate sheet of paper attached to the contract;

(ii) Be easily detachable; and

(iii) Contain the following statement printed in at least 15 point type:

"NOTICE OF ~~[~~RESCISSION~~]~~ **~~CANCELLATION~~** RESCISSION

..... (Date of contract)

You may ~~[~~rescind~~]~~ **~~CANCEL~~** rescind this contract for the sale of your house at any time within 10 days after the auditor states the account of the foreclosure sale.

To ~~cancel~~ **RESCIND** this transaction, mail or deliver a signed and dated copy of this Notice of ~~[~~Rescission~~]~~ **~~CANCELLATION~~** Rescission to ..... (Name of purchaser) at ..... (Address of purchaser, including facsimile and electronic mail) with a copy to the court appointed auditor.

I hereby ~~[~~rescind~~]~~ **~~CANCEL~~** rescind this transaction.

..... (Date)

..... (Homeowner's signature)".

(d) The foreclosure surplus purchaser shall provide the homeowner with a copy of the contract and the attached Notice of ~~[~~Rescission~~]~~ **~~CANCELLATION~~** Rescission at the time the contract is executed by all parties.

(e) The contract required by this section survives delivery of any instrument of conveyance of the residence in foreclosure, is binding in the audit, and has no effect on persons other than the parties to the contract.

(f) Any provision in a contract that attempts or purports to waive any of the rights specified in this title, consent to jurisdiction or choice of law in a state other than Maryland, consent to venue in a county other than the county in which the property is located, or impose any costs or filing fees greater than the fees required to file an action in a circuit court, is void.

7–315.

(a) In addition to any other right ~~[~~of rescission~~]~~ ~~TO CANCEL~~, a homeowner has the right to ~~[~~rescind~~]~~ **~~CANCEL~~** rescind any contract with a foreclosure surplus purchaser at any time within 10 days after the statement of audit account of the foreclosure sale.

(b) (1) ~~[~~Rescission~~]~~ **~~CANCELLATION~~** Rescission occurs when the homeowner delivers, by any means, written Notice of ~~[~~Rescission~~]~~ **~~CANCELLATION~~**

Rescission to the address specified in the contract, with a copy to the auditor. As part of the ~~**[**rescission**] CANCELLATION**~~ rescission, the homeowner shall repay any consideration received directly or indirectly, together with interest calculated at the rate of 8% a year.

(2) On receipt of the Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission, the auditor shall restate the account. The repayment of consideration and interest by the homeowner shall be incorporated by the auditor into the revised statement of account filed with the court.

(3) Upon ratification of the amended audit, the attorney named in the mortgage, mortgage assignee for purposes of foreclosure, trustee, or substitute trustee in making distribution of the surplus funds shall comply with the revised court–approved audit.

(c) A Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission given by a homeowner need not be in the form provided with the contract and is effective, however expressed, if it indicates the intention of the homeowner to ~~**[**rescind**] CANCEL**~~ rescind the contract.

(d) The right to ~~**[**rescind**] CANCEL**~~ rescind may not be conditioned on the repayment of any funds.

(e) Within 10 days after receipt of a Notice of ~~**[**Rescission**] CANCELLATION**~~ Rescission given in accordance with this section, the foreclosure surplus purchaser shall return, without condition, the original contract and all other documents signed by the homeowner.

7–318.

(a) A person may not induce or attempt to induce a homeowner to waive the homeowner's rights under this subtitle.

(b) Any waiver by a homeowner of the provisions of this subtitle is void and unenforceable as contrary to public policy.

7–318.1.

IT IS A VIOLATION OF THIS SUBTITLE IF A FORECLOSURE CONSULTANT:

(1) FAILS TO OBTAIN A REAL ESTATE BROKER'S LICENSE AS REQUIRED UNDER § 7– 308 OF THIS SUBTITLE; OR

(2) VIOLATES ANY PROVISION OF TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

7–319.

(a) The Attorney General **OR THE COMMISSIONER** may seek an injunction to prohibit a person who has engaged or is engaging in a violation of this subtitle from engaging or continuing to engage in the violation.

(b) The court may enter any order or judgment necessary to:

(1) Prevent the use by a person of any prohibited practice;

(2) Restore to a person any money or real or personal property acquired from the person by means of any prohibited practice; or

(3) Appoint a receiver in case of willful violation of this title.

(c) In any action brought by the Attorney General **OR THE COMMISSIONER** under this section, the Attorney General **OR THE COMMISSIONER** is entitled to recover the costs of the action for the use of the State.

(D) A VIOLATION OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

7–320.

(a) In addition to any action by the Attorney General **OR THE COMMISSIONER** authorized under this subtitle and any other action otherwise authorized by law, a homeowner may bring an action for damages incurred as the result of a practice prohibited by this subtitle.

(b) A homeowner who brings an action under this section and who is awarded damages may also seek, and the court may award, reasonable attorney's fees.

(c) If the court finds that the defendant willfully or knowingly violated this subtitle, the court may award damages equal to three times the amount of actual damages.

7–321.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $10,000 or both.

(b) A person who violates this subtitle is subject to § 5–106(b) of the Courts Article.

7–322.

(A) IF A CRIMINAL PROSECUTION UNDER THIS SUBTITLE RESULTS IN A CONVICTION, THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY WHO HAS PROSECUTED THE CASE SHALL NOTIFY THE COMMISSIONER IN WRITING OF THE CONVICTION WITHIN 30 DAYS OF THE CONVICTION.

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

(1) THE NAME AND ADDRESS OF THE PERSON CONVICTED; AND

(2) A COPY OF THE JUDGMENT IN THE CRIMINAL CASE.

7–323. RESERVED.

7–324. RESERVED.

PART VI. SHORT TITLE.

7–325.

THIS SUBTITLE MAY BE CITED AS THE "PROTECTION OF HOMEOWNERS IN FORECLOSURE ACT".

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.~~

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 3, 2008.

CHAPTER 7

(Senate Bill 270)

AN ACT concerning

Credit Regulation – Mortgage Lending and Other Extensions of Credit

FOR the purpose of prohibiting a lender from requiring or authorizing the imposition of a prepayment penalty, fee, premium, or other charge in connection with certain ~~subprime~~ mortgage loans; prohibiting certain lenders and credit grantors from making certain mortgage loans without giving due regard to the borrower's ability to repay the loans; repealing certain provisions of law that establish a certain presumption about a borrower's ability to repay a loan; requiring due regard to a borrower's ability to repay to include consideration of a certain debt to income ratio and verification of certain income and assets by review of certain written documentation; altering the threshold amount of a commercial loan on which prepayment charges or penalties may be charged; ~~providing that no prepayment charges may be imposed on consumer borrowers in connection with certain open–end credit;~~ requiring a certain representation by a mortgage broker to be contained in a finder's fee agreement; authorizing the Commissioner of Financial Regulation to participate in the establishment and implementation of a multistate automated licensing system for mortgage lenders and mortgage originators and to adopt certain regulations to facilitate implementation of the system; requiring certain license applicants and licensees to have and maintain a certain net worth; requiring the Commissioner to deny an application for certain licenses filed by persons with certain felony convictions; requiring the Commissioner to set certain fees by regulation and to publish certain fee schedules; requiring certain licensees to file surety bonds in certain amounts; altering the procedures for renewing a certain license; altering certain examination requirements for a mortgage originator's license; ~~requiring mortgage originators to reside within 100 miles of the licensed office locations from which they work;~~ requiring the Commissioner to revoke the mortgage originator license of any licensee who, while licensed, has been convicted of certain felonies; requiring the Commissioner to conduct certain studies; requiring the Commissioner to report certain findings and recommendations on or before a certain date; defining certain terms; repealing ~~a certain definition~~ certain definitions; altering a certain definition; making certain conforming changes; providing for the application of this Act; *providing that certain licensing, examination, and investigation fees shall remain in effect until the fees set by regulation by the Commissioner take effect; providing for the effective dates*

of this Act; and generally relating to credit regulation, extensions of credit, mortgage lending, and mortgage origination.

BY renumbering
Article – Commercial Law
Section 12–105(a), (b), (c), and (d), respectively to be Section 12–105(b), (c), (e), and (f), respectively
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Commercial Law
Section 12–105(a) and (d), ~~12–905(g),~~ and 12–925
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–105(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–127, 12–311, 12–409.1, 12–805, and 12–1029
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–105.1, ~~11–506(a) and (d)~~ 11–506(d), 11–507(b), 11–508, 11–511, 11–515(c), *11–603(c),* 11–605(a) and (b), 11–606(b), 11–609(b), *11–613(b),* and 11–615(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Financial Institutions
Section 11–503.1, 11–508.1, 11–612.1, and 11–615(f)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Financial Institutions
Section 11–507(a)(1) and 11–515(a)(1)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 11–508.1
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)
(As enacted by Section 2 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 12–105(a), (b), (c), and (d), respectively, of Article – Commercial Law of the Annotated Code of Maryland be renumbered to be Section(s) 12–105(b), (c), (e), and (f), respectively.

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

Article – Commercial Law

12–105.

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

~~(2) "ANNUAL PERCENTAGE RATE" HAS THE MEANING STATED IN 12 C.F.R. PART 226.~~

~~(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.~~

~~(4)~~ "~~MORTGAGE~~ MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

~~(5) "RESIDENTIAL REAL PROPERTY" MEANS OWNER–OCCUPIED REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

~~(6) "SUBPRIME LOAN" MEANS:~~

~~(I) IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING COMPARABLE PERIODS OF MATURITY:~~

~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF THE RATE IS SET ON OR AFTER THE 15TH DAY; AND~~

~~(II) FOR ALL OTHER MORTGAGE LOANS SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS ABOVE THE YIELD ON UNITED STATE TREASURY SECURITIES HAVING COMPARABLE PERIODS OF MATURITY:~~

~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH IF THE RATE IS SET BETWEEN THE FIRST AND THE 14TH DAY OF THE MONTH; AND~~

~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF THE RATE IS SET ON OR AFTER THE 15TH DAY.~~

(c) **[**If**]** **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IF** the loan contract provides for them, the following fees and charges also may be collected and are not interest under this subtitle:

(1) A service charge for investigation and the continued servicing of collateral for a commercial loan secured by inventory or accounts receivable;

(2) A service charge made by a broker or dealer dealing in investment securities if:

(i) Money is advanced on the security of pledged investment securities; and

(ii) Services are rendered in the collection, crediting, and disbursement of income on the investment securities and in the furnishing of income tax and other information in connection with that income;

(3) A delinquent or late charge of the greater of $2 or 5 percent of the total amount of any delinquent or late periodic installment of principal and interest, if:

(i) The delinquency has continued for at least 15 calendar days; and

(ii) A delinquent or late charge has not already been charged for the same delinquency; and

(4) A prepayment charge or penalty on a prepayment of the unpaid principal balance of the loan, if the loan is secured by a home, by a combination of home and business property, or by agricultural property, or if the loan is a commercial loan not in excess of **[**$5,000**]** **$15,000**, provided that the charge or penalty:

(i) May be imposed only on prepayments made within three years from the date the loan is made; and

(ii) May not exceed an amount equal to two months' advance interest on the aggregate amount of all prepayments made in any 12–month period in excess of one third of the amount of the original loan.

(D) ~~(1)~~ IN CONNECTION WITH A ~~SUBPRIME~~ MORTGAGE LOAN, A LENDER MAY NOT REQUIRE OR AUTHORIZE THE IMPOSITION OF A PENALTY, FEE, PREMIUM, OR OTHER CHARGE IN THE EVENT THE ~~SUBPRIME~~ MORTGAGE LOAN IS PREPAID IN WHOLE OR IN PART.

~~**(2) THE PROHIBITION UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A SUBPRIME LOAN WITH A PRINCIPAL AMOUNT THAT EXCEEDS THE CONFORMING SUBPRIME LOAN SIZE LIMIT FOR A SINGLE FAMILY DWELLING AS ESTABLISHED FROM TIME TO TIME BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**~~

12–127.

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

(2) **[**"Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the

mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.**] "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~APPLICABLE TO A~~, AS DEFINED IN THE MORTGAGE LOAN ~~FOR A RESIDENTIAL REAL PROPERTY~~ DOCUMENTS, PREVAILING AT THE TIME ~~IT IS ORIGINATED~~ THE MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

(3) **(I)** "Mortgage loan" has the meaning stated in § 11–501 of the Financial Institutions Article.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

~~(4) "Residential real property" means owner-occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) ~~(1)~~ A lender may not make a **[**covered**]** **MORTGAGE** loan without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in accordance with its terms**, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES**.

~~(2) A borrower is presumed to be able to repay a **MORTGAGE** loan if at the time the **MORTGAGE** loan is made the borrower's total scheduled monthly payment obligations, including the **[**required loan payment**]** **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This section does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.**]**

(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;

(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

12–311.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~APPLICABLE TO A~~, AS DEFINED IN THE MORTGAGE LOAN ~~FOR A RESIDENTIAL REAL PROPERTY~~ DOCUMENTS, PREVAILING AT THE TIME ~~IT IS~~ ~~ORIGINATED~~ THE

MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

[(3)**] (4)** "Home buyer education or housing counseling" means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

(5) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

~~**[**(4)**] (6)** "Residential real property" means owner-occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) A lender may not take as security for a loan any:

(1) Confession of judgment or power of attorney to him or to a third person to confess judgment or appear for the borrower in a judicial proceeding;

(2) Assignment or order for payment of wages;

(3) Instrument in which blanks are left to be filled after execution; or

(4) Note, promise to pay, or security instrument which does not state:

(i) The principal amount of the loan;

(ii) A schedule of payments or a description of the schedule; and

(iii) The agreed amount and rate of interest, charges, and fees.

(c) (1) A lender may not take any security interest in:

(i) Real property for any loan under $2,000 in value or amount; or

(ii) Personal property for any loan under $700 in value or amount.

(2) Any lien taken in violation of this subsection is void.

(3) This subsection does not apply to or affect a lien on an interest in real property which results from a judgment obtained by the lender based on a loan otherwise secured or unsecured.

(d) ~~(1)~~ A lender may not make a **[**covered**]** **MORTGAGE** loan without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in accordance with its terms**, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES**.

~~(2) A borrower is presumed to be able to repay a **MORTGAGE** loan if at the time the **MORTGAGE** loan is made the borrower's total scheduled monthly payment obligations, including the **[**required loan payment**]** **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This subsection does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.**]**

(E) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~**THE BORROWER'S MOST RECENT PAY STUB; AND**~~ **PAYROLL RECEIPTS;**

(IV) ~~**A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER**~~ **THE RECORDS OF A FINANCIAL INSTITUTION; OR**

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

[(e)**] (F)** (1) In this subsection, "loan application" has the meaning stated in § 12–125 of this title.

(2) At the time a borrower completes a loan application for a covered loan, the lender shall provide the borrower with:

(i) A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

12–409.1.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~**APPLICABLE TO A**~~**, AS DEFINED IN THE SECONDARY MORTGAGE LOAN** ~~**FOR A RESIDENTIAL REAL PROPERTY**~~ **DOCUMENTS, PREVAILING AT THE TIME** ~~**IT IS ORIGINATED**~~ **THE SECONDARY MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN**

THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

[(3)**] (4)** "Home buyer education or housing counseling" means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

~~**[**(4)**] (5)** "Residential real property" means owner–occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) ~~(1)~~ A lender may not make a **[**covered**]** **SECONDARY MORTGAGE** loan without giving due regard to the borrower's ability to repay the **SECONDARY MORTGAGE** loan in accordance with its terms**, INCLUDING THE FULLY INDEXED RATE OF THE SECONDARY MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES**.

~~(2) A borrower is presumed to be able to repay a **SECONDARY MORTGAGE** loan if at the time the **SECONDARY MORTGAGE** loan is made the borrower's total scheduled monthly payment obligations, including the **[**required loan payment**] PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This subsection does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.**]**

(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A SECONDARY MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~**A WRITTEN STATEMENT SUBMITTED BY THE BORROWER**~~ **THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;**

(II) A COPY OF THE BORROWER'S ~~**FEDERAL**~~ **INCOME TAX RETURN;**

(III) ~~**THE BORROWER'S MOST RECENT PAY STUB; AND**~~ **PAYROLL RECEIPTS;**

(IV) ~~**A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER**~~ **THE RECORDS OF A FINANCIAL INSTITUTION; OR**

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A SECONDARY MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

[(c)**] (D)** (1) In this subsection, "loan application" has the meaning stated in § 12–125 of this title.

(2) At the time a borrower completes a loan application for a covered loan, the lender shall provide the borrower with:

(i) A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

12–805.

(a) A mortgage broker may not receive any fee in the form of a note, mortgage, or other evidence of indebtedness.

(b) Payment of the finder's fee to the mortgage broker out of the proceeds of the loan is not considered as interest to the lender if the finder's fee is not in excess of that permitted by this subtitle.

(c) If the finder's fee is paid from the proceeds of the loan, the lender shall comply with the disclosure provisions of § 12–106 of this article or the federal Truth in Lending Act and in addition shall advise the borrower, in writing, of the borrower's right to a refund of the finder's fee upon the exercise of any right of rescission of the loan.

(d) (1) A finder's fee may not be charged unless it is pursuant to a written agreement between the mortgage broker and the borrower which is separate and distinct from any other document.

(2) The terms of the proposed agreement shall**:**

(I) [be**]** **BE** disclosed to the borrower before the mortgage broker undertakes to assist the borrower in obtaining a loan or advance of money **[**and shall**];**

(II) [specify**]** **SPECIFY** the amount of the finder's fee**; AND**

(III) CONTAIN A REPRESENTATION BY THE MORTGAGE BROKER THAT THE MORTGAGE BROKER IS ACTING AS A MORTGAGE BROKER AND NOT AS A LENDER IN THE TRANSACTION.

(3) A copy of the agreement, dated and signed by the mortgage broker and the borrower, shall be provided to the borrower within 10 business days after the date the loan application is completed.

~~12–905.~~

~~**(G) IN CONNECTION WITH A PREPAYMENT OF A LOAN BY A CONSUMER BORROWER, THE CREDIT GRANTOR MAY NOT IMPOSE A PREPAYMENT CHARGE.**~~

12–925.

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

(2) "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~APPLICABLE TO A~~, AS DEFINED IN THE MORTGAGE LOAN ~~FOR A RESIDENTIAL REAL PROPERTY~~ DOCUMENTS, PREVAILING AT THE TIME ~~IT IS~~ ~~ORIGINATED~~ THE MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

(3) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

(B) ~~(1)~~ A CREDIT GRANTOR MAY NOT MAKE A MORTGAGE LOAN WITHOUT GIVING DUE REGARD TO THE BORROWER'S ABILITY TO REPAY THE MORTGAGE LOAN IN ACCORDANCE WITH ITS TERMS, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.

~~(2) A BORROWER IS PRESUMED TO BE ABLE TO REPAY A MORTGAGE LOAN IF AT THE TIME THE LOAN IS MADE THE BORROWER'S TOTAL SCHEDULED MONTHLY PAYMENT OBLIGATIONS, INCLUDING THE PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE, DO NOT EXCEED 45 PERCENT OF THE BORROWER'S MONTHLY GROSS INCOME.~~

(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;

(IV) ~~**A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER**~~ **THE RECORDS OF A FINANCIAL INSTITUTION; OR**

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

12–1029.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership and Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~**APPLICABLE TO A,**~~ **AS DEFINED IN THE MORTGAGE LOAN** ~~**FOR A RESIDENTIAL REAL PROPERTY**~~ **DOCUMENTS, PREVAILING AT THE TIME** ~~**IT IS ORIGINATED**~~ **THE MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

[(3)**] (4)** "Home buyer education or housing counseling" means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

(5) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

(b) ~~(1)~~ A credit grantor may not make a **[**covered**]** **MORTGAGE** loan without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in accordance with its terms**, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S**

INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.

~~(2) A borrower is presumed to be able to repay a **MORTGAGE** loan if at the time the **MORTGAGE** loan is made the borrower's total scheduled monthly payment obligations, including the **[**required loan payment**]** **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This subsection does not apply to a loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.**]**

(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;

(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

[(C)**] (D)** (1) In this subsection, "loan application" has the meaning stated in § 12–1022 of this subtitle.

(2) At the time a borrower completes a loan application for a covered loan, the credit grantor shall provide the borrower with:

(i) A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

Article – Financial Institutions

2–105.1.

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

(2) "MORTGAGE LENDER" HAS THE MEANING STATED IN § 11–501 OF THIS ARTICLE.

(3) "MORTGAGE ORIGINATOR" HAS THE MEANING STATED IN § 11–601 OF THIS ARTICLE.

(B) The Commissioner may adopt and enforce regulations reasonably necessary to carry out the authority and responsibility of the office of Commissioner.

(C) (1) THE COMMISSIONER MAY PARTICIPATE IN THE ESTABLISHMENT AND IMPLEMENTATION OF A MULTISTATE AUTOMATED LICENSING SYSTEM FOR MORTGAGE LENDERS AND MORTGAGE ORIGINATORS.

(2) TO FACILITATE IMPLEMENTATION OF A MULTISTATE AUTOMATED LICENSING SYSTEM, THE COMMISSIONER MAY ADOPT REGULATIONS THAT WAIVE OR MODIFY THE REQUIREMENTS OF §§ 11–507, 11–511, 11–606, AND 11–609 OF THIS ARTICLE.

11–503.1.

(A) THE COMMISSIONER SHALL SET BY REGULATION THE FEES PROVIDED FOR IN THIS SUBTITLE.

(B) THE FEES ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF REGULATING LICENSEES IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(C) THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSIONER.

11–506.

~~(a) To qualify for a license, an applicant shall satisfy the Commissioner that the applicant:~~

~~(1)~~ [~~is~~] IS ~~of good moral character and has sufficient financial responsibility, business experience, and general fitness to:~~

[~~(1)~~**]** **(I)** ~~Engage in business as a mortgage lender;~~

[~~(2)~~**]** **(II)** ~~Warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and~~

[~~(3)~~**]** **(III)** ~~Command the confidence of the public~~**; AND**

~~(2)~~ HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET WORTH COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OF $25,000, OR OF UP TO $500,000 IF THE COMMISSIONER SO REQUIRES AFTER CONSIDERING THE FOLLOWING FACTORS:

~~(I) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED BUSINESS OF THE APPLICANT;~~

~~(II) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF THE APPLICANT;~~

~~**(III) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING CONTINGENT LIABILITIES, OF THE APPLICANT;**~~

~~**(IV) THE HISTORY OF, AND PROSPECTS FOR, THE APPLICANT TO EARN AND RETAIN INCOME;**~~

~~**(V) THE QUALITY OF THE OPERATIONS OF THE APPLICANT;**~~

~~**(VI) THE QUALITY OF THE MANAGEMENT OF THE APPLICANT;**~~

~~**(VII) THE QUALITY AND NATURE OF THE PERSON THAT CONTROLS THE APPLICANT; AND**~~

~~**(VIII) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS RELEVANT.**~~

(d) **(1) [**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Commissioner may deny an application for a license to any person who has been officially reprimanded or has committed any act that would be a ground for suspension or revocation of a license under this subtitle.

(2) THE COMMISSIONER SHALL DENY AN APPLICATION FOR A LICENSE FILED BY:

(I) AN INDIVIDUAL WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY; AND

(II) AN ENTITY THAT HAS A DIRECTOR, OFFICER, PARTNER, MEMBER, OR OWNER OF 10 PERCENT OR MORE OF THE ENTITY WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY.

11–507.

(a) (1) To apply for a license, an applicant shall complete, sign, and submit to the Commissioner an application made under oath on the form that the Commissioner requires.

(b) With each application, the applicant shall pay to the Commissioner **THE FOLLOWING FEES**:

(1) A nonrefundable investigation fee **[**of $100**]** **SET BY THE COMMISSIONER**; and

(2) A license fee **[**of either:

(i) $1,000 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an even–numbered year;

(ii) Effective January 1, 1999, $500 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an odd–numbered year; or

(iii) Notwithstanding subparagraph (i) or (ii) of this paragraph, $1,000 if the applicant applies for a license to be issued on or after October 1, 1997 and on or before December 31, 1997**]** **SET BY THE COMMISSIONER**.

11–508.

(a) An applicant for a new license or for the renewal of a license shall file a surety bond with each original application and any renewal application for the license.

(b) The surety bond shall:

(1) Run to the Commissioner and be for the benefit of any mortgage loan borrower who has been damaged by a violation committed by a licensee of any law or regulation governing the activities of mortgage lenders;

(2) Be issued by a surety company authorized to do business in the State;

(3) Be conditioned that the applicant shall comply with all Maryland laws regulating the activities of mortgage lenders and mortgage loan lending; and

(4) Be approved by the Commissioner.

(c) If an applicant has not conducted a mortgage lending business any time during the 36 months prior to the filing of an original application for a license, the applicant shall provide a sworn statement setting forth that fact**[**, and shall file with the original application a surety bond in the amount of $15,000**]**.

(d) (1) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original or renewal application, the applicant shall provide a sworn statement setting forth the aggregate principal amount of mortgage loans secured or to be secured by property located in Maryland

and applied for and accepted or mortgage loans secured or to be secured by property located in Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months immediately preceding the month in which the application is filed.

(2) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original application, but during that time has not acted as a mortgage lender in Maryland, the applicant shall provide with the original application a sworn statement setting forth the aggregate principal amount of loans secured or to be secured by residential real property located in states other than Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months preceding the month in which the application is filed.

(3) Except as provided in **[**subsections (c) and**]** **SUBSECTION** (e) of this section, the applicant shall file with the original or renewal application:

(i) Where the aggregate principal amount of loans set forth in the sworn statement was $3,000,000 or less, a surety bond in the amount of **[**$25,000**] $50,000**;

(ii) Where the aggregate principal amount of loans set forth in the sworn statement was more than $3,000,000 but not more than $10,000,000, a surety bond in the amount of **[**$50,000**] $100,000**; and

(iii) Where the aggregate principal amount of loans set forth in the sworn statement was more than $10,000,000, a surety bond in the amount of **[**$75,000**] $150,000**.

(e) Notwithstanding any other provisions of this section, and subject to approval by the Commissioner, if an applicant files five or more original or renewal applications at the same time, the applicant may provide a blanket surety bond for all licensed offices in the amount of **[**$375,000**] ~~$1,000,000~~ $750,000**.

(f) Subject to approval by the Commissioner, an applicant for license who files an application for a new license or for the renewal of a license may satisfy the bonding requirement under this section by establishing a trust account with or obtaining an irrevocable letter of credit from a financial institution insured by the Federal Deposit Insurance Corporation in an amount equal to the bond required under this section.

(g) The Commissioner may adopt regulations reasonably necessary to assure that the proper surety bond amount established by this section is maintained by each licensee throughout each licensing term. The regulations may provide for periodic reporting, recalculation, and enforcement of required bond amounts.

11–508.1.

(A) AN APPLICANT FOR A NEW LICENSE OR FOR THE RENEWAL OF A LICENSE SHALL SATISFY THE COMMISSIONER THAT THE APPLICANT OR LICENSEE HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET WORTH COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES:

(1) IN THE CASE OF AN APPLICANT OR LICENSEE THAT DOES NOT LEND MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF $25,000; AND

(2) IN THE CASE OF AN APPLICANT OR LICENSEE THAT LENDS MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF:

(I) $25,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE ~~NO~~ *NOT* MORE THAN $1,000,000 SECURED BY RESIDENTIAL REAL PROPERTY;

(II) $50,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN $1,000,000 BUT ~~NO~~ *NOT* MORE THAN $5,000,000 SECURED BY RESIDENTIAL REAL PROPERTY; *AND*

(III) $100,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN $5,000,000 ~~BUT NO MORE THAN $10,000,000~~ SECURED BY RESIDENTIAL REAL PROPERTY~~; AND~~

~~(IV) $250,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN $10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY~~.

(B) (1) ~~THE~~ *SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE* MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION MAY BE SATISFIED BY THE APPLICANT OR LICENSEE HAVING:

(I) CASH ON DEPOSIT WITH A BANK OR DEPOSITORY INSTITUTION;

(II) A LINE OF CREDIT FROM A BANK OR DEPOSITORY INSTITUTION;

(III) OTHER ASSETS; OR

(IV) A COMBINATION OF CASH, A LINE OF CREDIT, OR OTHER ASSETS.

(2) IF CASH IS USED TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A BANK LETTER VERIFYING:

(I) THE ACCOUNT BALANCE;

(II) THE TYPE OF ACCOUNT IN WHICH THE FUNDS ARE HELD; AND

(III) THAT THE FUNDS ARE NOT ENCUMBERED OR HYPOTHECATED IN ANY WAY.

(3) *(I)* IF A LINE OF CREDIT IS USED TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A COPY OF THE LINE OF CREDIT AGREEMENT AND PROMISSORY NOTE.

(II) A LINE OF CREDIT MAY NOT BE USED TOWARD SATISFYING MORE THAN 75% OF THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION.

11–511.

(a) **[**(1) A license issued on or before September 30, 1997 expires on December 31 of the year in which it was issued, unless the license is renewed for a 2–year term, as provided in this section.

(2) A license issued on or after October 1, 1997 expires on December 31 in each odd–numbered year after December 31, 1997 unless the license is renewed for a 2–year term as provided in this section.**] A LICENSE EXPIRES ON THE SECOND ANNIVERSARY OF ITS DATE OF ISSUE.**

(b) **[**On or before December 1 of the year of**]** **AT LEAST 30 DAYS BEFORE ITS** expiration, a license may be renewed for an additional 2–year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee **[**of $1,000**]** **SET BY THE COMMISSIONER**;

(3) Files a bond or bond continuation certificate for the amount required under § 11–508 of this subtitle; and

(4) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

(c) If a license is issued for less than 2 full years and is surrendered voluntarily, or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

(d) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

11–515.

(a) (1) The Commissioner shall examine the business of each licensee:

(i) In accordance with a schedule established by the Commissioner; and

(ii) At any other time that the Commissioner reasonably considers necessary.

(c) A licensee shall pay to the Commissioner a **PER–DAY** fee **[**of not more than $250 per day**]** **SET BY THE COMMISSIONER** for each of the Commissioner's employees engaged in:

(1) An examination required under subsection (a)(1) of this section; and

(2) Any other examination or investigation conducted under this section that **[**results in the discovery of a violation of this subtitle by the licensee**]** **THE COMMISSIONER REASONABLY CONSIDERS NECESSARY**.

11–603.

(c) *(1)* *The Commissioner shall include on each license:*

(i) *The name of the licensee; and*

(ii) *The name of the licensee's employer.*

(2) *Unless the licensee notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer and pays to the Commissioner a license amendment fee* ***[****of $75****]*** ***SET BY THE COMMISSIONER*** *for each notice provided under this paragraph, an individual may not act as a mortgage originator under a name or for an employer that is different from the name and employer that appear on the license.*

11–605.

(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant:

(i) Has at least 3 years of experience in the mortgage lending business and has completed any required courses for continuing education established by the Commissioner; or

(ii) Has completed 40 hours of classroom education and achieved a passing grade on a written examination **[**developed and administered by the person conducting the classroom education course approved by the Commissioner for new applicants; and**]** **AS REQUIRED BY REGULATION; AND**

(2) The applicant is of good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner~~; AND~~

~~**(3)** THE APPLICANT RESIDES WITHIN 100 MILES OF THE LICENSED OFFICE LOCATION AT WHICH THE APPLICANT WILL WORK AS A LICENSEE~~.

(b) **(1)** **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Commissioner may deny an application for a license filed by an

individual who has committed an act that would serve as a sufficient ground for suspension or revocation of a license under this subtitle or a mortgage lender license under Subtitle 5 of this title.

(2) THE COMMISSIONER SHALL DENY AN APPLICATION FOR A LICENSE FILED BY AN INDIVIDUAL WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY.

11–606.

(b) With each application, the applicant shall pay to the Commissioner:

(1) A nonrefundable investigation fee **[**of $100**]** **SET BY THE COMMISSIONER**; and

(2) A license fee **[**of $300**]** **SET BY THE COMMISSIONER**.

11–609.

(b) On or before December 1 of the year of expiration, a license may be renewed for an additional 2–year term if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee **[**of $300**]** **SET BY THE COMMISSIONER**; and

(3) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

11–612.1.

(A) THE COMMISSIONER SHALL SET BY REGULATION THE FEES PROVIDED FOR IN THIS SUBTITLE.

(B) THE FEES ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF

REGULATING LICENSEES IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(C) THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSIONER.

11–613.

(b) A licensee shall pay to the Commissioner a ***PER–DAY*** *fee* ***[****of not more than $250 per day****]*** ***SET BY THE COMMISSIONER*** *for each of the Commissioner's employees engaged in any investigation conducted under this section that* ***[****results in the discovery of a violation of this subtitle by the licensee****]*** ***THE COMMISSIONER REASONABLY CONSIDERS NECESSARY****.*

11–615.

(a) Subject to the hearing provisions of § 11–616 of this subtitle, **AND EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION,** the Commissioner may suspend or revoke the license of any licensee if the licensee:

(1) Makes any material misstatement in an application for a license;

(2) Is convicted under the laws of the United States or of any state of a felony or a misdemeanor that is directly related to the fitness and qualification of the individual to act as a mortgage originator;

(3) In connection with any mortgage loan or loan application transaction:

(i) Commits any fraud;

(ii) Engages in any illegal or dishonest activities; or

(iii) Misrepresents or fails to disclose any material facts to a person entitled to that information;

(4) Violates any provision of this subtitle, any regulation adopted under this subtitle, or any other law regulating mortgage lending or mortgage origination in the State; or

(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly.

(F) IF THE COMMISSIONER DETERMINES THAT A LICENSEE HAS BEEN CONVICTED OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY WHILE THE LICENSEE HAS BEEN LICENSED, THE COMMISSIONER SHALL REVOKE THE LICENSE OF THE LICENSEE.

SECTION 3. 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 contract, agreement, or loan entered into, or the granting of any license under Title 11, Subtitle 5 or 6 of the Financial Institutions Article, before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Commissioner of Financial Regulation shall study the feasibility of conducting examinations of mortgage lender licensees using a risk–based approach rather than a fixed schedule approach.

(b) On or before January 1, 2009, the Commissioner shall report the findings of the study and any recommendations, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The Commissioner of Financial Regulation shall study the use of a call feature in which a mortgage loan contains a provision that permits the lender or credit grantor, in its sole discretion, absent a default or failure of the borrower to abide by the material terms of the mortgage loan, to accelerate the indebtedness of a mortgage loan.

(b) On or before January 1, 2009, the Commissioner shall report the findings of the study and any recommendations, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding Section 2 of this Act, the fees relating to the licensing, examination, and investigation of mortgage lenders and mortgage originators under §§ 11–507(b), 11–511(b), 11–515(c), 11–603(c), 11–606(b), 11–609(b), and 11–613(b) of the Financial Institutions Article that are in effect on June 1, 2008, shall remain in effect until the fees set by regulation by the Commissioner of Financial Regulation, as required under this Act, take effect.

SECTION 7. AND BE IT FURTHER ENACTED, That:

Article – Financial Institutions

11–508.1.

(a) An applicant for a new license or for the renewal of a license shall satisfy the Commissioner that the applicant or licensee has, and at all times will maintain, a minimum net worth computed according to generally accepted accounting principles:

(1) In the case of an applicant or licensee that does not lend money secured by residential real property, in the amount of $25,000; and

(2) In the case of an applicant or licensee that lends money secured by residential real property, in the amount of:

(i) $25,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate not more than $1,000,000 secured by residential real property;

(ii) $50,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $1,000,000, but not more than $5,000,000 secured by residential real property; ***[****and****]***

*(iii) $100,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $5,000,000****, BUT NOT MORE THAN $10,000,000*** *secured by residential real property****; AND***

(IV) $250,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN $10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, the minimum net worth requirements under subsection (a)(2) of this section may be satisfied by the applicant or licensee having:

(i) Cash on deposit with a bank or depository institution;

(ii) A line of credit from a bank or depository institution;

(iii) Other assets; or

(iv) A combination of cash, a line of credit, or other assets.

(2) If cash is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a bank letter verifying:

(i) The account balance;

(ii) The type of account in which the funds are held; and

(iii) That the funds are not encumbered or hypothecated in any way.

(3) (i) If a line of credit is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a copy of the line of credit agreement and the promissory note.

(ii) A line of credit may not be used toward satisfying more than 75% of the minimum net worth requirements under subsection (a)(2) of this section.

SECTION 8. AND BE IT FURTHER ENACTED, That Section 7 of this Act shall take effect January 1, 2009.

SECTION ~~4.~~ ~~6.~~ *9.* AND BE IT FURTHER ENACTED, That*, except as provided in Section 8 of this Act*, this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 8

(House Bill 363)

AN ACT concerning

Credit Regulation – Mortgage Lending and Other Extensions of Credit

FOR the purpose of prohibiting a lender from requiring or authorizing the imposition of a prepayment penalty, fee, premium, or other charge in connection with certain ~~subprime~~ mortgage loans; prohibiting certain lenders and credit grantors from making certain mortgage loans without giving due regard to the borrower's ability to repay the loans; repealing certain provisions of law that establish a certain presumption about a borrower's ability to repay a loan;

requiring due regard to a borrower's ability to repay to include consideration of a certain debt to income ratio and verification of certain income and assets by review of certain written documentation; altering the threshold amount of a commercial loan on which prepayment charges or penalties may be charged; ~~providing that no prepayment charges may be imposed on consumer borrowers in connection with certain open-end credit;~~ requiring a certain representation by a mortgage broker to be contained in a finder's fee agreement; authorizing the Commissioner of Financial Regulation to participate in the establishment and implementation of a multistate automated licensing system for mortgage lenders and mortgage originators and to adopt certain regulations to facilitate implementation of the system; requiring certain license applicants and licensees to have and maintain a certain net worth; requiring the Commissioner to deny an application for certain licenses filed by persons with certain felony convictions; requiring the Commissioner to set certain fees by regulation and to publish certain fee schedules; requiring certain licensees to file surety bonds in certain amounts; altering the procedures for renewing a certain license; altering certain examination requirements for a mortgage originator's license; ~~requiring mortgage originators to reside within 100 miles of the licensed office locations from which they work;~~ requiring the Commissioner to revoke the mortgage originator license of any licensee who, while licensed, has been convicted of certain felonies; requiring the Commissioner to conduct certain studies; requiring the Commissioner to report certain findings and recommendations on or before a certain date; defining certain terms; repealing ~~a certain definition~~ certain definitions; altering a certain definition; making certain conforming changes; providing for the application of this Act; providing that certain licensing, examination, and investigation fees shall remain in effect until the fees set by regulation by the Commissioner take effect; *providing for the effective dates of this Act;* and generally relating to credit regulation, extensions of credit, mortgage lending, and mortgage origination.

BY renumbering
Article – Commercial Law
Section 12–105(a), (b), (c), and (d), respectively
to be Section 12–105(b), (c), (e), and (f), respectively
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Commercial Law
Section 12–105(a) and (d)~~, 12–905(g),~~ and 12–925
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law
Section 12–105(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–127, 12–311, 12–409.1, 12–805, and 12–1029
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–105.1, ~~11–506(a) and (d)~~ 11–506(d), 11–507(b), 11–508, 11–511, 11–515(c), 11–603(c), 11–605(a) and (b), 11–606(b), 11–609(b), 11–613(b), and 11–615(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Financial Institutions
Section 11–503.1, 11–508.1, 11–612.1, and 11–615(f)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 11–507(a)(1) and 11–515(a)(1)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 11–508.1
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)
(As enacted by Section 2 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 12–105(a), (b), (c), and (d), respectively, of Article – Commercial Law of the Annotated Code of Maryland be renumbered to be Section(s) 12–105(b), (c), (e), and (f), respectively.

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

Article – Commercial Law

12–105.

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

~~(2) "ANNUAL PERCENTAGE RATE" HAS THE MEANING STATED IN 12 C.F.R PART 226.~~

~~(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.~~

~~(4)~~ "~~MORTGAGE~~ MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

~~(5) "RESIDENTIAL REAL PROPERTY" MEANS OWNER–OCCUPIED REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

~~(6) "SUBPRIME LOAN" MEANS:~~

~~(I) IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING COMPARABLE PERIODS OF MATURITY:~~

~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF THE RATE IS SET ON OR AFTER THE 15TH DAY; AND~~

~~**(II) FOR ALL OTHER MORTGAGE LOANS SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS ABOVE THE YIELD ON UNITED STATE TREASURY SECURITIES HAVING COMPARABLE PERIODS OF MATURITY:**~~

~~**1. AS OF THE 15TH DAY OF THE PRECEDING MONTH IF THE RATE IS SET BETWEEN THE FIRST AND THE 14TH DAY OF THE MONTH; AND**~~

~~**2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF THE RATE IS SET ON OR AFTER THE 15TH DAY.**~~

(c) **[**If**]** **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IF** the loan contract provides for them, the following fees and charges also may be collected and are not interest under this subtitle:

(1) A service charge for investigation and the continued servicing of collateral for a commercial loan secured by inventory or accounts receivable;

(2) A service charge made by a broker or dealer dealing in investment securities if:

(i) Money is advanced on the security of pledged investment securities; and

(ii) Services are rendered in the collection, crediting, and disbursement of income on the investment securities and in the furnishing of income tax and other information in connection with that income;

(3) A delinquent or late charge of the greater of $2 or 5 percent of the total amount of any delinquent or late periodic installment of principal and interest, if:

(i) The delinquency has continued for at least 15 calendar days; and

(ii) A delinquent or late charge has not already been charged for the same delinquency; and

(4) A prepayment charge or penalty on a prepayment of the unpaid principal balance of the loan, if the loan is secured by a home, by a combination of home and business property, or by agricultural property, or if the loan is a commercial loan not in excess of **[**$5,000**]** **$15,000**, provided that the charge or penalty:

(i) May be imposed only on prepayments made within three years from the date the loan is made; and

(ii) May not exceed an amount equal to two months' advance interest on the aggregate amount of all prepayments made in any 12–month period in excess of one third of the amount of the original loan.

(D) ~~(1)~~ IN CONNECTION WITH A ~~SUBPRIME~~ MORTGAGE LOAN, A LENDER MAY NOT REQUIRE OR AUTHORIZE THE IMPOSITION OF A PENALTY, FEE, PREMIUM, OR OTHER CHARGE IN THE EVENT THE ~~SUBPRIME~~ MORTGAGE LOAN IS PREPAID IN WHOLE OR IN PART.

~~(2) THE PROHIBITION UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A SUBPRIME LOAN WITH A PRINCIPAL AMOUNT THAT EXCEEDS THE CONFORMING SUBPRIME LOAN SIZE LIMIT FOR A SINGLE FAMILY DWELLING AS ESTABLISHED FROM TIME TO TIME BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.~~

12–127.

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

(2) **[**"Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.**] "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~APPLICABLE TO A~~, AS DEFINED IN THE MORTGAGE LOAN ~~FOR A RESIDENTIAL REAL PROPERTY~~ DOCUMENTS, PREVAILING AT THE TIME ~~IT IS ORIGINATED~~ THE MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

(3) **(I)** "Mortgage loan" has the meaning stated in § 11–501 of the Financial Institutions Article.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

~~(4) "Residential real property" means owner–occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) ~~(1)~~ A lender may not make a **[**covered**]** **MORTGAGE** loan without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in accordance with its terms**, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES**.

~~(2) A borrower is presumed to be able to repay a **MORTGAGE** loan if at the time the **MORTGAGE** loan is made the borrower's total scheduled monthly payment obligations, including the **[**required loan payment**]** **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This section does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.**]**

(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;

(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

12–311.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~APPLICABLE TO A~~, AS DEFINED IN THE MORTGAGE LOAN ~~FOR A RESIDENTIAL REAL PROPERTY~~ DOCUMENTS, PREVAILING AT THE TIME ~~IT IS ORIGINATED~~ THE MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

[(3)**] (4)** "Home buyer education or housing counseling" means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

(5) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

~~**[**(4)**] (6)** "Residential real property" means owner-occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) A lender may not take as security for a loan any:

(1) Confession of judgment or power of attorney to him or to a third person to confess judgment or appear for the borrower in a judicial proceeding;

(2) Assignment or order for payment of wages;

(3) Instrument in which blanks are left to be filled after execution; or

(4) Note, promise to pay, or security instrument which does not state:

(i) The principal amount of the loan;

(ii) A schedule of payments or a description of the schedule; and

(iii) The agreed amount and rate of interest, charges, and fees.

(c) (1) A lender may not take any security interest in:

(i) Real property for any loan under $2,000 in value or amount; or

(ii) Personal property for any loan under $700 in value or amount.

(2) Any lien taken in violation of this subsection is void.

(3) This subsection does not apply to or affect a lien on an interest in real property which results from a judgment obtained by the lender based on a loan otherwise secured or unsecured.

(d) ~~(1)~~ A lender may not make a **[**covered**]** **MORTGAGE** loan without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in accordance with its terms**, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES**.

~~(2) A borrower is presumed to be able to repay a **MORTGAGE** loan if at the time the **MORTGAGE** loan is made the borrower's total scheduled monthly~~

~~payment obligations, including the [required loan payment] PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This subsection does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.**]**

(E) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;

(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

[(e)**] (F)** (1) In this subsection, "loan application" has the meaning stated in § 12–125 of this title.

(2) At the time a borrower completes a loan application for a covered loan, the lender shall provide the borrower with:

(i) A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

12–409.1.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~APPLICABLE TO A~~, AS DEFINED IN THE SECONDARY MORTGAGE LOAN ~~FOR A RESIDENTIAL REAL PROPERTY~~ DOCUMENTS, PREVAILING AT THE TIME ~~IT IS ORIGINATED~~ THE SECONDARY MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

[(3)**] (4)** "Home buyer education or housing counseling" means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

~~**[**(4)**] (5)** "Residential real property" means owner-occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) ~~(1)~~ A lender may not make a **[**covered**]** **SECONDARY MORTGAGE** loan without giving due regard to the borrower's ability to repay the **SECONDARY MORTGAGE** loan in accordance with its terms**, INCLUDING THE FULLY INDEXED RATE OF THE SECONDARY MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY**

TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.

~~(2) A borrower is presumed to be able to repay a **SECONDARY MORTGAGE** loan if at the time the **SECONDARY MORTGAGE** loan is made the borrower's total scheduled monthly payment obligations, including the **[**required loan payment**]** **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This subsection does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.**]**

(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A SECONDARY MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;

(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A SECONDARY MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

[(c)**] (D)** (1) In this subsection, "loan application" has the meaning stated in § 12–125 of this title.

(2) At the time a borrower completes a loan application for a covered loan, the lender shall provide the borrower with:

(i) A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

12–805.

(a) A mortgage broker may not receive any fee in the form of a note, mortgage, or other evidence of indebtedness.

(b) Payment of the finder's fee to the mortgage broker out of the proceeds of the loan is not considered as interest to the lender if the finder's fee is not in excess of that permitted by this subtitle.

(c) If the finder's fee is paid from the proceeds of the loan, the lender shall comply with the disclosure provisions of § 12–106 of this article or the federal Truth in Lending Act and in addition shall advise the borrower, in writing, of the borrower's right to a refund of the finder's fee upon the exercise of any right of rescission of the loan.

(d) (1) A finder's fee may not be charged unless it is pursuant to a written agreement between the mortgage broker and the borrower which is separate and distinct from any other document.

(2) The terms of the proposed agreement shall**:**

(I) [be**] BE** disclosed to the borrower before the mortgage broker undertakes to assist the borrower in obtaining a loan or advance of money **[**and shall**];**

(II) [specify**] SPECIFY** the amount of the finder's fee**; AND**

(III) CONTAIN A REPRESENTATION BY THE MORTGAGE BROKER THAT THE MORTGAGE BROKER IS ACTING AS A MORTGAGE BROKER AND NOT AS A LENDER IN THE TRANSACTION.

(3) A copy of the agreement, dated and signed by the mortgage broker and the borrower, shall be provided to the borrower within 10 business days after the date the loan application is completed.

~~12–905.~~

~~**(G) IN CONNECTION WITH A PREPAYMENT OF A LOAN BY A CONSUMER BORROWER, THE CREDIT GRANTOR MAY NOT IMPOSE A PREPAYMENT CHARGE.**~~

12–925.

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

(2) "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~APPLICABLE TO A~~, AS DEFINED IN THE MORTGAGE LOAN ~~FOR A RESIDENTIAL REAL PROPERTY~~ DOCUMENTS, PREVAILING AT THE TIME ~~IT IS~~ ~~ORIGINATED~~ THE MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

(3) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

(B) ~~(1)~~ A CREDIT GRANTOR MAY NOT MAKE A MORTGAGE LOAN WITHOUT GIVING DUE REGARD TO THE BORROWER'S ABILITY TO REPAY THE MORTGAGE LOAN IN ACCORDANCE WITH ITS TERMS, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.

~~**(2) A BORROWER IS PRESUMED TO BE ABLE TO REPAY A MORTGAGE LOAN IF AT THE TIME THE LOAN IS MADE THE BORROWER'S TOTAL SCHEDULED MONTHLY PAYMENT OBLIGATIONS, INCLUDING THE PRINCIPAL,**~~

~~**INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE, DO NOT EXCEED 45 PERCENT OF THE BORROWER'S MONTHLY GROSS INCOME.**~~

(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;

(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

12–1029.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership and Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE ~~APPLICABLE TO A~~, AS DEFINED IN THE MORTGAGE LOAN ~~FOR A RESIDENTIAL REAL PROPERTY~~ DOCUMENTS, PREVAILING AT THE TIME ~~IT IS ORIGINATED~~ THE MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

[(3)**] (4)** "Home buyer education or housing counseling" means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

(5) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

(b) ~~(1)~~ A credit grantor may not make a **[**covered**]** **MORTGAGE** loan without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in accordance with its terms**, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES**.

~~(2) A borrower is presumed to be able to repay a **MORTGAGE** loan if at the time the **MORTGAGE** loan is made the borrower's total scheduled monthly payment obligations, including the **[**required loan payment**] PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This subsection does not apply to a loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.**]**

(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD–PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND COMPLETE.

(2) ACCEPTABLE THIRD–PARTY WRITTEN DOCUMENTATION INCLUDES:

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W–2;

(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;

(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD–PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

[(c)**] (D)** (1) In this subsection, "loan application" has the meaning stated in § 12–1022 of this subtitle.

(2) At the time a borrower completes a loan application for a covered loan, the credit grantor shall provide the borrower with:

(i) A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

Article – Financial Institutions

2–105.1.

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

(2) "MORTGAGE LENDER" HAS THE MEANING STATED IN § 11–501 OF THIS ARTICLE.

(3) "MORTGAGE ORIGINATOR" HAS THE MEANING STATED IN § 11–601 OF THIS ARTICLE.

(B) The Commissioner may adopt and enforce regulations reasonably necessary to carry out the authority and responsibility of the office of Commissioner.

(C) (1) THE COMMISSIONER MAY PARTICIPATE IN THE ESTABLISHMENT AND IMPLEMENTATION OF A MULTISTATE AUTOMATED LICENSING SYSTEM FOR MORTGAGE LENDERS AND MORTGAGE ORIGINATORS.

(2) TO FACILITATE IMPLEMENTATION OF A MULTISTATE AUTOMATED LICENSING SYSTEM, THE COMMISSIONER MAY ADOPT REGULATIONS THAT WAIVE OR MODIFY THE REQUIREMENTS OF §§ 11–507, 11–511, 11–606, AND 11–609 OF THIS ARTICLE.

11–503.1.

(A) THE COMMISSIONER SHALL SET BY REGULATION THE FEES PROVIDED FOR IN THIS SUBTITLE.

(B) THE FEES ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF REGULATING LICENSEES IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(C) THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSIONER.

11–506.

~~(a) To qualify for a license, an applicant shall satisfy the Commissioner that the applicant:~~

~~**(1)** **[**is**]** **IS** of good moral character and has sufficient financial responsibility, business experience, and general fitness to:~~

~~**[**(1)**]** **(I)** Engage in business as a mortgage lender;~~

~~**[**(2)**]** **(II)** Warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and~~

~~**[**(3)**]** **(III)** Command the confidence of the public~~**; AND**~~

~~**(2) HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET WORTH COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OF $25,000, OR OF UP TO $500,000 IF THE COMMISSIONER SO REQUIRES AFTER CONSIDERING THE FOLLOWING FACTORS:**~~

~~**(I) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED BUSINESS OF THE APPLICANT;**~~

~~**(II) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF THE APPLICANT;**~~

~~**(III) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING CONTINGENT LIABILITIES, OF THE APPLICANT;**~~

~~**(IV) THE HISTORY OF, AND PROSPECTS FOR, THE APPLICANT TO EARN AND RETAIN INCOME;**~~

~~**(V) THE QUALITY OF THE OPERATIONS OF THE APPLICANT;**~~

~~**(VI) THE QUALITY OF THE MANAGEMENT OF THE APPLICANT;**~~

~~**(VII) THE QUALITY AND NATURE OF THE PERSON THAT CONTROLS THE APPLICANT; AND**~~

~~**(VIII) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS RELEVANT.**~~

(d) **(1) [**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Commissioner may deny an application for a license to any person who has been officially reprimanded or has committed any act that would be a ground for suspension or revocation of a license under this subtitle.

(2) THE COMMISSIONER SHALL DENY AN APPLICATION FOR A LICENSE FILED BY:

(I) AN INDIVIDUAL WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY; AND

(II) AN ENTITY THAT HAS A DIRECTOR, OFFICER, PARTNER, MEMBER, OR OWNER OF 10 PERCENT OR MORE OF THE ENTITY WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY.

11–507.

(a) (1) To apply for a license, an applicant shall complete, sign, and submit to the Commissioner an application made under oath on the form that the Commissioner requires.

(b) With each application, the applicant shall pay to the Commissioner **THE FOLLOWING FEES**:

(1) A nonrefundable investigation fee **[**of $100**]** **SET BY THE COMMISSIONER**; and

(2) A license fee **[**of either:

(i) $1,000 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an even–numbered year;

(ii) Effective January 1, 1999, $500 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an odd–numbered year; or

(iii) Notwithstanding subparagraph (i) or (ii) of this paragraph, $1,000 if the applicant applies for a license to be issued on or after October 1, 1997 and on or before December 31, 1997**]** **SET BY THE COMMISSIONER**.

11–508.

(a) An applicant for a new license or for the renewal of a license shall file a surety bond with each original application and any renewal application for the license.

(b) The surety bond shall:

(1) Run to the Commissioner and be for the benefit of any mortgage loan borrower who has been damaged by a violation committed by a licensee of any law or regulation governing the activities of mortgage lenders;

(2) Be issued by a surety company authorized to do business in the State;

(3) Be conditioned that the applicant shall comply with all Maryland laws regulating the activities of mortgage lenders and mortgage loan lending; and

(4) Be approved by the Commissioner.

(c) If an applicant has not conducted a mortgage lending business any time during the 36 months prior to the filing of an original application for a license, the applicant shall provide a sworn statement setting forth that fact**[**, and shall file with the original application a surety bond in the amount of $15,000**]**.

(d) (1) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original or renewal application, the applicant shall provide a sworn statement setting forth the aggregate principal amount of mortgage loans secured or to be secured by property located in Maryland and applied for and accepted or mortgage loans secured or to be secured by property located in Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months immediately preceding the month in which the application is filed.

(2) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original application, but during that time has not acted as a mortgage lender in Maryland, the applicant shall provide with the original application a sworn statement setting forth the aggregate principal amount of loans secured or to be secured by residential real property located in states other than Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months preceding the month in which the application is filed.

(3) Except as provided in **[**subsections (c) and**]** **SUBSECTION** (e) of this section, the applicant shall file with the original or renewal application:

(i) Where the aggregate principal amount of loans set forth in the sworn statement was $3,000,000 or less, a surety bond in the amount of **[**$25,000**]** **$50,000**;

(ii) Where the aggregate principal amount of loans set forth in the sworn statement was more than $3,000,000 but not more than $10,000,000, a surety bond in the amount of **[**$50,000**]** **$100,000**; and

(iii) Where the aggregate principal amount of loans set forth in the sworn statement was more than $10,000,000, a surety bond in the amount of **[**$75,000**]** **$150,000**.

(e) Notwithstanding any other provisions of this section, and subject to approval by the Commissioner, if an applicant files five or more original or renewal applications at the same time, the applicant may provide a blanket surety bond for all licensed offices in the amount of **[**$375,000**]** ~~**$1,000,000**~~ **$750,000**.

(f) Subject to approval by the Commissioner, an applicant for license who files an application for a new license or for the renewal of a license may satisfy the bonding requirement under this section by establishing a trust account with or obtaining an irrevocable letter of credit from a financial institution insured by the Federal Deposit Insurance Corporation in an amount equal to the bond required under this section.

(g) The Commissioner may adopt regulations reasonably necessary to assure that the proper surety bond amount established by this section is maintained by each licensee throughout each licensing term. The regulations may provide for periodic reporting, recalculation, and enforcement of required bond amounts.

11–508.1.

(A) AN APPLICANT FOR A NEW LICENSE OR FOR THE RENEWAL OF A LICENSE SHALL SATISFY THE COMMISSIONER THAT THE APPLICANT OR LICENSEE HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET WORTH COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES:

(1) IN THE CASE OF AN APPLICANT OR LICENSEE THAT DOES NOT LEND MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF $25,000; AND

(2) IN THE CASE OF AN APPLICANT OR LICENSEE THAT LENDS MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF:

(I) $25,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE NOT MORE THAN $1,000,000 SECURED BY RESIDENTIAL REAL PROPERTY;

(II) $50,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN $1,000,000 BUT NOT MORE THAN $5,000,000 SECURED BY RESIDENTIAL REAL PROPERTY; *AND*

(III) $100,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN $5,000,000 ~~BUT NOT MORE THAN $10,000,000~~ SECURED BY RESIDENTIAL REAL PROPERTY~~; AND~~

~~**(IV) $250,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN $10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY.**~~

(B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION MAY BE SATISFIED BY THE APPLICANT OR LICENSEE HAVING:

(I) CASH ON DEPOSIT WITH A BANK OR DEPOSITORY INSTITUTION;

(II) A LINE OF CREDIT FROM A BANK OR DEPOSITORY INSTITUTION;

(III) OTHER ASSETS; OR

(IV) A COMBINATION OF CASH, A LINE OF CREDIT, OR OTHER ASSETS.

(2) IF CASH IS USED TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE

APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A BANK LETTER VERIFYING:

(I) THE ACCOUNT BALANCE;

(II) THE TYPE OF ACCOUNT IN WHICH THE FUNDS ARE HELD; AND

(III) THAT THE FUNDS ARE NOT ENCUMBERED OR HYPOTHECATED IN ANY WAY.

(3) (I) IF A LINE OF CREDIT IS USED TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A COPY OF THE LINE OF CREDIT AGREEMENT AND PROMISSORY NOTE.

(II) A LINE OF CREDIT MAY NOT BE USED TOWARD SATISFYING MORE THAN ~~50%~~ *75%* OF THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION.

11–511.

(a) **[**(1) A license issued on or before September 30, 1997 expires on December 31 of the year in which it was issued, unless the license is renewed for a 2–year term, as provided in this section.

(2) A license issued on or after October 1, 1997 expires on December 31 in each odd–numbered year after December 31, 1997 unless the license is renewed for a 2–year term as provided in this section.**] A LICENSE EXPIRES ON THE SECOND ANNIVERSARY OF ITS DATE OF ISSUE.**

(b) **[**On or before December 1 of the year of**] AT LEAST 30 DAYS BEFORE ITS** expiration, a license may be renewed for an additional 2–year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee **[**of $1,000**] SET BY THE COMMISSIONER**;

(3) Files a bond or bond continuation certificate for the amount required under § 11–508 of this subtitle; and

(4) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

(c) If a license is issued for less than 2 full years and is surrendered voluntarily, or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

(d) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

11–515.

(a) (1) The Commissioner shall examine the business of each licensee:

(i) In accordance with a schedule established by the Commissioner; and

(ii) At any other time that the Commissioner reasonably considers necessary.

(c) A licensee shall pay to the Commissioner a **PER–DAY** fee **[**of not more than $250 per day**]** **SET BY THE COMMISSIONER** for each of the Commissioner's employees engaged in:

(1) An examination required under subsection (a)(1) of this section; and

(2) Any other examination or investigation conducted under this section that **[**results in the discovery of a violation of this subtitle by the licensee**]** **THE COMMISSIONER REASONABLY CONSIDERS NECESSARY**.

11–603.

(c) (1) The Commissioner shall include on each license:

(i) The name of the licensee; and

(ii) The name of the licensee's employer.

(2) Unless the licensee notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer and pays to the Commissioner a license amendment fee **[**of $75**]** **SET BY THE COMMISSIONER** for each notice provided under this paragraph, an individual may not act as a mortgage originator under a name or for an employer that is different from the name and employer that appear on the license.

11–605.

(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant:

(i) Has at least 3 years of experience in the mortgage lending business and has completed any required courses for continuing education established by the Commissioner; or

(ii) Has completed 40 hours of classroom education and achieved a passing grade on a written examination **[**developed and administered by the person conducting the classroom education course approved by the Commissioner for new applicants; and**]** **AS REQUIRED BY REGULATION; AND**

(2) The applicant is of good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner~~; AND~~

~~**(3) THE APPLICANT RESIDES WITHIN 100 MILES OF THE LICENSED OFFICE LOCATION AT WHICH THE APPLICANT WILL WORK AS A LICENSEE**~~.

(b) **(1)** **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Commissioner may deny an application for a license filed by an individual who has committed an act that would serve as a sufficient ground for suspension or revocation of a license under this subtitle or a mortgage lender license under Subtitle 5 of this title.

(2) THE COMMISSIONER SHALL DENY AN APPLICATION FOR A LICENSE FILED BY AN INDIVIDUAL WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY.

11–606.

(b) With each application, the applicant shall pay to the Commissioner:

(1) A nonrefundable investigation fee **[**of $100**]** **SET BY THE COMMISSIONER**; and

(2) A license fee **[**of $300**]** **SET BY THE COMMISSIONER**.

11–609.

(b) On or before December 1 of the year of expiration, a license may be renewed for an additional 2–year term if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee **[**of $300**]** **SET BY THE COMMISSIONER**; and

(3) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

11–612.1.

(A) THE COMMISSIONER SHALL SET BY REGULATION THE FEES PROVIDED FOR IN THIS SUBTITLE.

(B) THE FEES ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF REGULATING LICENSEES IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(C) THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSIONER.

11–613.

(b) A licensee shall pay to the Commissioner a **PER–DAY** fee **[**of not more than $250 per day**]** **SET BY THE COMMISSIONER** for each of the Commissioner's employees engaged in any investigation conducted under this section that **[**results in

the discovery of a violation of this subtitle by the licensee**] THE COMMISSIONER REASONABLY CONSIDERS NECESSARY**.

11–615.

(a) Subject to the hearing provisions of § 11–616 of this subtitle, **AND EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION,** the Commissioner may suspend or revoke the license of any licensee if the licensee:

(1) Makes any material misstatement in an application for a license;

(2) Is convicted under the laws of the United States or of any state of a felony or a misdemeanor that is directly related to the fitness and qualification of the individual to act as a mortgage originator;

(3) In connection with any mortgage loan or loan application transaction:

(i) Commits any fraud;

(ii) Engages in any illegal or dishonest activities; or

(iii) Misrepresents or fails to disclose any material facts to a person entitled to that information;

(4) Violates any provision of this subtitle, any regulation adopted under this subtitle, or any other law regulating mortgage lending or mortgage origination in the State; or

(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly.

(F) IF THE COMMISSIONER DETERMINES THAT A LICENSEE HAS BEEN CONVICTED OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY WHILE THE LICENSEE HAS BEEN LICENSED, THE COMMISSIONER SHALL REVOKE THE LICENSE OF THE LICENSEE.

SECTION 3. 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 contract, agreement, or loan entered into, or the granting of any license under Title 11, Subtitle 5 or 6 of the Financial Institutions Article, before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Commissioner of Financial Regulation shall study the feasibility of conducting examinations of mortgage lender licensees using a risk–based approach rather than a fixed schedule approach.

(b) On or before January 1, 2009, the Commissioner shall report the findings of the study and any recommendations, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The Commissioner of Financial Regulation shall study the use of a call feature in which a mortgage loan contains a provision that permits the lender or credit grantor, in its sole discretion, absent a default or failure of the borrower to abide by the material terms of the mortgage loan, to accelerate the indebtedness of a mortgage loan.

(b) On or before January 1, 2009, the Commissioner shall report the findings of the study and any recommendations, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding Section 2 of this Act, the fees relating to the licensing, examination, and investigation of mortgage lenders and mortgage originators under §§ 11–507(b), 11–511(b), 11–515(c), 11–603(c), 11–606(b), 11–609(b), and 11–613(b) of the Financial Institutions Article that are in effect on June 1, 2008, shall remain in effect until the fees set by regulation by the Commissioner of Financial Regulation, as required under this Act, take effect.

SECTION 7. AND BE IT FURTHER ENACTED, That:

Article – Financial Institutions

11–508.1.

(a) An applicant for a new license or for the renewal of a license shall satisfy the Commissioner that the applicant or licensee has, and at all times will maintain, a minimum net worth computed according to generally accepted accounting principles:

(1) In the case of an applicant or licensee that does not lend money secured by residential real property, in the amount of $25,000; and

(2) In the case of an applicant or licensee that lends money secured by residential real property, in the amount of:

(i) $25,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate not more than $1,000,000 secured by residential real property;

(ii) $50,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $1,000,000, but not more than $5,000,000 secured by residential real property; ***[****and****]***

*(iii) $100,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $5,000,000****, BUT NOT MORE THAN $10,000,000*** *secured by residential real property****; AND***

(IV) $250,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN $10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY*.*

(b) (1) Subject to paragraphs (2) and (3) of this subsection, the minimum net worth requirements under subsection (a)(2) of this section may be satisfied by the applicant or licensee having:

(i) Cash on deposit with a bank or depository institution;

(ii) A line of credit from a bank or depository institution;

(iii) Other assets; or

(iv) A combination of cash, a line of credit, or other assets.

(2) If cash is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a bank letter verifying:

(i) The account balance;

(ii) The type of account in which the funds are held; and

(iii) That the funds are not encumbered or hypothecated in any way.

(3) (i) If a line of credit is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a copy of the line of credit agreement and the promissory note.

(ii) A line of credit may not be used toward satisfying more than 75% of the minimum net worth requirements under subsection (a)(2) of this section.

SECTION 8. AND BE IT FURTHER ENACTED, That Section 7 of this Act shall take effect January 1, 2009.

SECTION ~~4.~~ ~~7.~~ *9.* AND BE IT FURTHER ENACTED, That*, except as provided in Section 8 of this Act,* this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 9

(House Bill 362)

AN ACT concerning

Reorganization of State Government – Department of Information Technology

FOR the purpose of reorganizing State government by establishing a Department of Information Technology as a principal unit of the Executive Branch; providing for the qualifications, appointment, powers, duties, and salary of the Secretary of Information Technology; providing for the duties of the Department of Information Technology; specifying that the Department of Information Technology is responsible for administering the information technology functions of the Executive Branch of State government; transferring the information technology and telecommunications functions of the Executive Branch from the Department of Budget and Management to the Department of Information Technology; *requiring the Secretary to provide a certain annual report on certain technology development projects to the Department of Legislative Services;* transferring the Telecommunications Access of Maryland program from the Department of Budget and Management to the Department of Information Technology; requiring certain shopping facilities to acquire and install certain communications devices; providing that the Department of

Information Technology is a primary procurement unit; repealing a certain requirement regarding the adoption of regulations; repealing certain provisions of law rendered inapplicable by provisions of this Act; abolishing the State Information Technology Board; defining certain terms; providing for the transfer of certain employees under certain circumstances; providing for appropriate transitional provisions relating to the continuity of certain departments, boards, commissions, committees, agencies, and other units; providing for the transfer of certain property, records, fixtures, appropriations, credits, assets, liabilities, obligations, rights, and privileges; providing for the continuity of certain laws, rules and regulations, standards and guidelines, policies, orders and other directives, permits and licenses, applications, forms, plans, memberships, contracts, property, investigations, and administrative and judicial responsibilities; providing for the continuity of certain transactions, rights, duties, and interests; providing for the continuity of certain persons licensed, registered, permitted, and certified under certain departments, offices, and units; providing for the continuity of certain contracts, agreements, grants, or other obligations; specifying that the publisher of the Annotated Code of Maryland, in consultation with the Department of Legislative Services, shall correct agency names and titles in the Code to conform to the changes that are made by this Act; making technical changes; and generally relating to the reorganization of State government and the establishment of a Department of Information Technology.

BY repealing
Article – State Finance and Procurement
Section 3–401 through 3–413 and the subtitle "Subtitle 4. Information Processing"; 3–701 through 3–706 and the subtitle "Subtitle 7. Telecommunications"; 3–801 through 3–807 and the subtitle "Subtitle 8. Telecommunications Access of Maryland"; and 3–901 through 3–906 and the subtitle "Subtitle 9. Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals"
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–201
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Finance and Procurement
Section 3A–101 through 3A–606 to be under the new title "Title 3A. Department of Information Technology"; and 12–107(b)(7)

Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11–101(l), 12–107(b)(2), (5), and (6), 13–401, 13–402(a), and 14–501(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 14–501(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3–401 through 3–413 and the subtitle "Subtitle 4. Information Processing"; 3–701 through 3–706 and the subtitle "Subtitle 7. Telecommunications"; 3–801 through 3–807 and the subtitle "Subtitle 8. Telecommunications Access of Maryland"; and 3–901 through 3–906 and the subtitle "Subtitle 9. Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals" of Article – State Finance and Procurement of the Annotated Code of Maryland be repealed.

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

Article – State Government

8–201.

(a) The Executive Branch of the State government shall have not more than 21 principal departments, each of which shall embrace a broad, functional area of that Branch.

(b) The principal departments of the Executive Branch of the State government are:

(1) Aging;

(2) Agriculture;

(3) Budget and Management;

(4) Business and Economic Development;

(5) Disabilities;

(6) the Environment;

(7) General Services;

(8) Health and Mental Hygiene;

(9) Housing and Community Development;

(10) Human Resources;

(11) INFORMATION TECHNOLOGY;

[(11)**] (12)** Juvenile Services;

[(12)**] (13)** Labor, Licensing, and Regulation;

[(13)**] (14)** Natural Resources;

[(14)**] (15)** Planning;

[(15)**] (16)** Public Safety and Correctional Services;

[(16)**] (17)** State Police;

[(17)**] (18)** Transportation; and

[(18)**] (19)** Veterans Affairs.

Article – State Finance and Procurement

TITLE 3A. DEPARTMENT OF INFORMATION TECHNOLOGY.

SUBTITLE 1. DEFINITIONS.

3A–101.

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

(B) "DEPARTMENT" MEANS THE DEPARTMENT OF INFORMATION TECHNOLOGY.

(C) "SECRETARY" MEANS THE SECRETARY OF INFORMATION TECHNOLOGY.

(D) "TELECOMMUNICATION" MEANS THE TRANSMISSION OF INFORMATION, IMAGES, PICTURES, VOICE, OR DATA BY RADIO, VIDEO, OR OTHER ELECTRONIC OR IMPULSE MEANS.

(E) "UNIT OF STATE GOVERNMENT" MEANS AN AGENCY OR UNIT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

SUBTITLE 2. ORGANIZATION AND GENERAL AUTHORITY OF THE DEPARTMENT.

3A–201.

THERE IS A DEPARTMENT OF INFORMATION TECHNOLOGY ESTABLISHED AS A PRINCIPAL DEPARTMENT OF STATE GOVERNMENT.

3A–202.

(A) THE HEAD OF THE DEPARTMENT IS THE SECRETARY OF INFORMATION TECHNOLOGY, WHO SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(B) THE SECRETARY SHALL HAVE EXPERIENCE IN INFORMATION TECHNOLOGY, DATA PROCESSING, TELECOMMUNICATIONS, AND SYSTEMS PROCUREMENT, PLANNING, AND MANAGEMENT.

(C) BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(D) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE GOVERNOR'S POLICIES ON THOSE MATTERS.

(E) THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT AND MAY ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

(F) THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF RESPONSIBILITY IN THE DEPARTMENT NECESSARY TO FULFILL THE DUTIES ASSIGNED TO THE SECRETARY.

3A–203.

(A) (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT A DEPUTY SECRETARY.

(2) THE DEPUTY SECRETARY:

(I) SERVES AT THE PLEASURE OF THE SECRETARY;

(II) IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET; AND

(III) HAS THE DUTIES PROVIDED BY LAW OR DELEGATED BY THE SECRETARY.

(B) EACH ASSISTANT SECRETARY AND PROFESSIONAL CONSULTANT IS IN THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM AND IS APPOINTED BY AND SERVES AT THE PLEASURE OF THE SECRETARY.

(C) EXCEPT AS PROVIDED IN THIS SECTION OR OTHERWISE BY LAW, THE SECRETARY SHALL APPOINT AND REMOVE ALL OTHER STAFF IN ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(D) THE APPOINTMENT OF OR REMOVAL OF STAFF OF ANY UNIT IN THE DEPARTMENT IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

3A–204.

(A) THE ATTORNEY GENERAL IS LEGAL ADVISER TO THE DEPARTMENT.

(B) AT THE REQUEST OF THE GOVERNOR, THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER OF ASSISTANT ATTORNEYS GENERAL AUTHORIZED BY LAW TO BE ASSIGNED TO THE DEPARTMENT.

(C) (1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO THE DEPARTMENT.

(2) AFTER THE ATTORNEY GENERAL DESIGNATES THE COUNSEL TO THE DEPARTMENT, THE ATTORNEY GENERAL MAY NOT REASSIGN THE COUNSEL WITHOUT CONSULTING THE SECRETARY.

(3) (I) THE COUNSEL MAY HAVE NO OTHER DUTY OTHER THAN TO:

1. GIVE THE LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE SECRETARY OR ANY OTHER OFFICIAL OF THE DEPARTMENT;

2. SUPERVISE THE OTHER ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT; AND

3. PERFORM FOR THE DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

(II) THE COUNSEL SHALL PERFORM THESE DUTIES SUBJECT TO THE CONTROL AND SUPERVISION OF THE ATTORNEY GENERAL.

SUBTITLE 3. INFORMATION PROCESSING.

3A–301.

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

(B) (1) "DEVELOPMENT" MEANS ALL EXPENDITURES FOR A NEW INFORMATION TECHNOLOGY SYSTEM OR AN ENHANCEMENT TO AN EXISTING SYSTEM INCLUDING SYSTEM:

(I) PLANNING;

(II) PROCUREMENT;

(III) CREATION;

(IV) INSTALLATION;

(V) TESTING; AND

(VI) INITIAL TRAINING.

(2) "DEVELOPMENT" DOES NOT INCLUDE:

(I) ONGOING OPERATING COSTS, SOFTWARE OR HARDWARE MAINTENANCE, ROUTINE UPGRADES, OR MODIFICATIONS THAT MERELY ALLOW FOR A CONTINUATION OF THE EXISTING LEVEL OF FUNCTIONALITY; OR

(II) EXPENDITURES MADE AFTER A NEW OR ENHANCED SYSTEM HAS BEEN LEGALLY ACCEPTED BY THE USER AND IS BEING USED FOR THE BUSINESS PROCESS FOR WHICH IT WAS INTENDED.

(C) "FUND" MEANS THE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT FUND.

(D) "INFORMATION TECHNOLOGY" MEANS ALL ELECTRONIC INFORMATION PROCESSING HARDWARE AND SOFTWARE, INCLUDING:

(1) MAINTENANCE;

(2) TELECOMMUNICATIONS; AND

(3) ASSOCIATED CONSULTING SERVICES.

(E) "INFORMATION TECHNOLOGY SERVICES" MEANS INFORMATION PROVIDED BY ELECTRONIC MEANS BY OR ON BEHALF OF A UNIT OF STATE GOVERNMENT.

(F) "MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT" MEANS ANY INFORMATION TECHNOLOGY DEVELOPMENT PROJECT THAT MEETS ONE OR MORE OF THE FOLLOWING CRITERIA:

(1) THE ESTIMATED TOTAL COST OF DEVELOPMENT EQUALS OR EXCEEDS $1,000,000;

(2) THE PROJECT IS UNDERTAKEN TO SUPPORT A CRITICAL BUSINESS FUNCTION ASSOCIATED WITH THE PUBLIC HEALTH, EDUCATION, SAFETY, OR FINANCIAL WELL–BEING OF THE CITIZENS OF MARYLAND; OR

(3) THE SECRETARY DETERMINES THAT THE PROJECT REQUIRES THE SPECIAL ATTENTION AND CONSIDERATION GIVEN TO A MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT DUE TO:

(I) THE SIGNIFICANCE OF THE PROJECT'S POTENTIAL BENEFITS OR RISKS;

(II) THE IMPACT OF THE PROJECT ON THE PUBLIC OR LOCAL GOVERNMENTS;

(III) THE PUBLIC VISIBILITY OF THE PROJECT; OR

(IV) OTHER REASONS AS DETERMINED BY THE SECRETARY.

(G) "MASTER PLAN" MEANS THE STATEWIDE INFORMATION TECHNOLOGY MASTER PLAN.

(H) "NONVISUAL ACCESS" MEANS THE ABILITY, THROUGH KEYBOARD CONTROL, SYNTHESIZED SPEECH, BRAILLE, OR OTHER METHODS NOT REQUIRING SIGHT TO RECEIVE, USE, AND MANIPULATE INFORMATION AND OPERATE CONTROLS NECESSARY TO ACCESS INFORMATION TECHNOLOGY.

(I) "RESOURCE SHARING" MEANS THE UTILIZATION OF A STATE RESOURCE BY PRIVATE INDUSTRY IN EXCHANGE FOR THE PROVISION TO THE STATE OF A COMMUNICATION SERVICE OR OTHER CONSIDERATION.

(J) "SYSTEMS DEVELOPMENT LIFE CYCLE PLAN" MEANS A PLAN THAT DEFINES ALL ACTIONS, FUNCTIONS, OR ACTIVITIES TO BE PERFORMED BY A UNIT OF STATE GOVERNMENT IN THE DEFINITION, PLANNING, ACQUISITION, DEVELOPMENT, TESTING, IMPLEMENTATION, OPERATION, ENHANCEMENT, AND MODIFICATION OF INFORMATION TECHNOLOGY SYSTEMS.

3A–302.

(A) THIS SUBTITLE DOES NOT APPLY TO CHANGES RELATING TO OR THE PURCHASE, LEASE, OR RENTAL OF INFORMATION TECHNOLOGY BY:

(1) PUBLIC INSTITUTIONS OF HIGHER EDUCATION SOLELY FOR ACADEMIC OR RESEARCH PURPOSES;

(2) THE MARYLAND PORT ADMINISTRATION;

(3) THE UNIVERSITY SYSTEM OF MARYLAND;

(4) ST. MARY'S COLLEGE OF MARYLAND; OR

(5) MORGAN STATE UNIVERSITY.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION AND §§ 3A–307(A)(2), 3A–308, AND 3A–309 OF THIS SUBTITLE, THIS SUBTITLE APPLIES TO ALL UNITS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT INCLUDING PUBLIC INSTITUTIONS OF HIGHER EDUCATION OTHER THAN MORGAN STATE UNIVERSITY, THE UNIVERSITY SYSTEM OF MARYLAND, AND ST. MARY'S COLLEGE OF MARYLAND.

3A–303.

THE SECRETARY IS RESPONSIBLE FOR CARRYING OUT THE FOLLOWING DUTIES:

(1) DEVELOPING, MAINTAINING, REVISING, AND ENFORCING INFORMATION TECHNOLOGY POLICIES, PROCEDURES, AND STANDARDS;

(2) PROVIDING TECHNICAL ASSISTANCE, ADVICE, AND RECOMMENDATIONS TO THE GOVERNOR AND ANY UNIT OF STATE GOVERNMENT CONCERNING INFORMATION TECHNOLOGY MATTERS;

(3) REVIEWING THE ANNUAL PROJECT PLAN FOR EACH UNIT OF STATE GOVERNMENT TO MAKE INFORMATION AND SERVICES AVAILABLE TO THE PUBLIC OVER THE INTERNET;

(4) DEVELOPING AND MAINTAINING A STATEWIDE INFORMATION TECHNOLOGY MASTER PLAN THAT WILL:

(I) BE THE BASIS FOR THE MANAGEMENT AND DIRECTION OF INFORMATION TECHNOLOGY WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT;

(II) INCLUDE ALL ASPECTS OF STATE INFORMATION TECHNOLOGY INCLUDING TELECOMMUNICATIONS, DATA PROCESSING, AND INFORMATION MANAGEMENT;

(III) CONSIDER INTERSTATE TRANSFERS AS A RESULT OF FEDERAL LEGISLATION AND REGULATION;

(IV) WORK JOINTLY WITH THE SECRETARY OF BUDGET AND MANAGEMENT TO ENSURE THAT INFORMATION TECHNOLOGY PLANS AND BUDGETS ARE CONSISTENT;

(V) ENSURE THAT STATE INFORMATION TECHNOLOGY PLANS, POLICIES, AND STANDARDS ARE CONSISTENT WITH STATE GOALS, OBJECTIVES, AND RESOURCES, AND REPRESENT A LONG–RANGE VISION FOR USING INFORMATION TECHNOLOGY TO IMPROVE THE OVERALL EFFECTIVENESS OF STATE GOVERNMENT; AND

(VI) INCLUDE STANDARDS TO ASSURE NONVISUAL ACCESS TO THE INFORMATION AND SERVICES MADE AVAILABLE TO THE PUBLIC OVER THE INTERNET; AND

(5) ADOPTING BY REGULATION AND ENFORCING NONVISUAL ACCESS STANDARDS TO BE USED IN THE PROCUREMENT OF INFORMATION TECHNOLOGY SERVICES BY OR ON BEHALF OF UNITS OF STATE GOVERNMENT.

3A–304.

THE SECRETARY SHALL DEVELOP A STATEWIDE INFORMATION TECHNOLOGY MASTER PLAN.

3A–305.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ACCORDANCE WITH GUIDELINES ESTABLISHED BY THE SECRETARY, EACH UNIT OF STATE GOVERNMENT SHALL DEVELOP AND SUBMIT TO THE SECRETARY:

(1) INFORMATION TECHNOLOGY POLICIES AND STANDARDS;

(2) AN INFORMATION TECHNOLOGY PLAN; AND

(3) AN ANNUAL PROJECT PLAN OUTLINING THE STATUS OF EFFORTS TO MAKE INFORMATION AND SERVICES AVAILABLE TO THE PUBLIC OVER THE INTERNET.

(B) (1) THE GOVERNING BOARDS OF THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION SHALL DEVELOP AND SUBMIT INFORMATION TECHNOLOGY

POLICIES AND STANDARDS AND AN INFORMATION TECHNOLOGY PLAN FOR THEIR RESPECTIVE INSTITUTIONS OR SYSTEMS TO THE SECRETARY.

(2) IF THE SECRETARY FINDS THAT THE SUBMISSIONS REQUIRED UNDER THIS SUBSECTION ARE CONSISTENT WITH THE MASTER PLAN, THE SECRETARY SHALL INCORPORATE THOSE SUBMISSIONS INTO THE MASTER PLAN.

(3) IF THE SECRETARY FINDS THAT THE SUBMISSIONS REQUIRED UNDER THIS SUBSECTION ARE NOT CONSISTENT WITH THE MASTER PLAN:

(I) THE SECRETARY SHALL RETURN THE SUBMISSIONS TO THE GOVERNING BOARDS; AND

(II) THE GOVERNING BOARDS SHALL REVISE THE SUBMISSIONS AS APPROPRIATE AND SUBMIT THE REVISED POLICIES, STANDARDS, AND PLANS TO THE SECRETARY.

3A–306.

INFORMATION TECHNOLOGY OF EACH UNIT OF STATE GOVERNMENT SHALL BE CONSISTENT WITH THE MASTER PLAN.

3A–307.

(A) (1) A UNIT OF STATE GOVERNMENT MAY NOT PURCHASE, LEASE, OR RENT INFORMATION TECHNOLOGY UNLESS CONSISTENT WITH THE MASTER PLAN.

(2) A UNIT OF STATE GOVERNMENT OTHER THAN A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT MAKE EXPENDITURES FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS EXCEPT AS PROVIDED IN § 3A–308 OF THIS SUBTITLE.

(B) (1) THE SECRETARY MAY REVIEW ANY INFORMATION TECHNOLOGY PROJECT FOR CONSISTENCY WITH THE MASTER PLAN.

(2) ANY INFORMATION TECHNOLOGY PROJECT SELECTED FOR REVIEW MAY NOT BE IMPLEMENTED WITHOUT THE APPROVAL OF THE SECRETARY.

(C) (1) A UNIT OF STATE GOVERNMENT SHALL ADVISE THE SECRETARY OF ANY INFORMATION TECHNOLOGY PROPOSAL INVOLVING RESOURCE SHARING, THE EXCHANGE OF GOODS OR SERVICES, OR A GIFT, CONTRIBUTION, OR GRANT OF REAL OR PERSONAL PROPERTY.

(2) THE SECRETARY SHALL DETERMINE IF THE VALUE OF THE RESOURCES, SERVICES, AND PROPERTY TO BE OBTAINED BY THE STATE UNDER THE TERMS OF ANY PROPOSAL SUBMITTED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION EQUALS OR EXCEEDS $100,000.

(3) IF THE VALUE OF ANY PROPOSAL SUBMITTED IN ACCORDANCE WITH THIS SUBSECTION EQUALS OR EXCEEDS $100,000 AND THE SECRETARY AND UNIT AGREE TO PROCEED WITH THE PROPOSAL, INFORMATION ON THE PROPOSAL SHALL BE:

(I) ADVERTISED FOR A PERIOD OF AT LEAST 30 DAYS IN THE ~~MARYLAND~~ EMARYLAND MARKETPLACE; AND

(II) SUBMITTED, SIMULTANEOUSLY WITH THE ADVERTISEMENT, TO THE LEGISLATIVE POLICY COMMITTEE FOR A 60–DAY REVIEW AND COMMENT PERIOD, DURING WHICH TIME THE COMMITTEE MAY RECOMMEND THAT THE PROPOSAL BE TREATED AS A PROCUREMENT CONTRACT UNDER DIVISION II OF THIS ARTICLE.

(4) FOLLOWING THE PERIOD FOR REVIEW AND COMMENT BY THE LEGISLATIVE POLICY COMMITTEE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE PROPOSAL IS SUBJECT TO APPROVAL BY THE BOARD OF PUBLIC WORKS.

(5) THIS SUBSECTION MAY NOT BE CONSTRUED AS AUTHORIZING AN EXCEPTION FROM THE REQUIREMENTS OF DIVISION II OF THIS ARTICLE FOR ANY CONTRACT THAT OTHERWISE WOULD BE SUBJECT TO THE STATE PROCUREMENT PROCESS.

3A–308.

(A) THIS SECTION DOES NOT APPLY TO A PUBLIC INSTITUTION OF HIGHER EDUCATION.

(B) IN SUBMITTING ITS INFORMATION TECHNOLOGY PROJECT REQUESTS, A UNIT OF STATE GOVERNMENT SHALL DESIGNATE PROJECTS WHICH ARE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS.

(C) IN REVIEWING INFORMATION TECHNOLOGY PROJECT REQUESTS, THE SECRETARY MAY CHANGE A UNIT'S DESIGNATION OF A MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT.

(D) THE SECRETARY SHALL REVIEW AND, WITH THE ADVICE OF THE SECRETARY OF BUDGET AND MANAGEMENT, APPROVE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS AND SPECIFICATIONS FOR CONSISTENCY WITH ALL STATEWIDE PLANS, POLICIES, AND STANDARDS, INCLUDING A SYSTEMS DEVELOPMENT LIFE CYCLE PLAN.

(E) THE SECRETARY SHALL BE RESPONSIBLE FOR OVERSEEING THE IMPLEMENTATION OF MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS, REGARDLESS OF FUND SOURCE.

(F) WITH THE ADVICE OF THE SECRETARY OF BUDGET AND MANAGEMENT, EXPENDITURES FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS SHALL BE SUBJECT TO THE APPROVAL OF THE SECRETARY WHO SHALL APPROVE EXPENDITURES ONLY WHEN THOSE PROJECTS ARE CONSISTENT WITH STATEWIDE PLANS, POLICIES, AND STANDARDS.

(G) (1) THE SECRETARY SHALL APPROVE FUNDING FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS ONLY WHEN THOSE PROJECTS ARE SUPPORTED BY AN APPROVED SYSTEMS DEVELOPMENT LIFE CYCLE PLAN.

(2) THE SECRETARY MAY APPROVE FUNDING INCREMENTALLY, CONSISTENT WITH THE SYSTEMS DEVELOPMENT LIFE CYCLE PLAN.

3A–309.

(A) THERE IS A MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT FUND.

(B) THE PURPOSE OF THE FUND IS TO SUPPORT MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS.

(C) THE SECRETARY:

(1) SHALL ADMINISTER THE FUND IN ACCORDANCE WITH THIS SECTION; AND

(2) SUBJECT TO THE PROVISIONS OF § 2–201 OF THIS ARTICLE AND 3A–307 OF THIS SUBTITLE, MAY RECEIVE AND ACCEPT CONTRIBUTIONS, GRANTS, OR GIFTS OF MONEY OR PROPERTY.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THIS ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(3) THE STATE TREASURER SHALL INVEST AND REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(4) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(E) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) MONEY RECEIVED FROM THE SALE, LEASE, OR EXCHANGE OF COMMUNICATION SITES OR COMMUNICATION FREQUENCIES FOR INFORMATION TECHNOLOGY PURPOSES AS APPROVED BY THE SECRETARY;

(3) MONEY RECEIVED AS COMMISSIONS, REBATES, REFUNDS, RATE REDUCTIONS, OR TELECOMMUNICATION BYPASS AGREEMENTS RESULTING FROM INFORMATION TECHNOLOGY SERVICES OR PURCHASES;

(4) THAT PORTION OF MONEYS EARNED FROM PAY PHONE COMMISSIONS TO THE EXTENT THAT THE COMMISSION RATES EXCEED THOSE IN EFFECT IN DECEMBER 1993;

(5) MONEY RECEIVED AND ACCEPTED AS CONTRIBUTIONS, GRANTS, OR GIFTS AS AUTHORIZED UNDER SUBSECTION (C) OF THIS SECTION;

(6) GENERAL FUNDS APPROPRIATED FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS OF ANY UNIT OF STATE GOVERNMENT OTHER THAN A PUBLIC INSTITUTION OF HIGHER EDUCATION THAT:

(I) ARE UNENCUMBERED AND UNEXPENDED AT THE END OF A FISCAL YEAR;

(II) HAVE BEEN ABANDONED; OR

(III) HAVE BEEN WITHHELD BY THE GENERAL ASSEMBLY OR THE SECRETARY;

(7) ANY INVESTMENT EARNINGS; AND

(8) ANY OTHER MONEY FROM ANY SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) THE FUND DOES NOT INCLUDE ANY MONEY:

(1) RECEIVED BY THE DEPARTMENT OF TRANSPORTATION, MARYLAND TRANSPORTATION AUTHORITY, OR MARYLAND PUBLIC BROADCASTING COMMISSION;

(2) RECEIVED BY THE JUDICIAL OR LEGISLATIVE BRANCHES OF STATE GOVERNMENT; OR

(3) GENERATED FROM PAY PHONE COMMISSIONS THAT ARE CREDITED TO OTHER ACCOUNTS OR FUNDS IN ACCORDANCE WITH OTHER PROVISIONS OF LAW OR ARE AUTHORIZED FOR OTHER PURPOSES IN THE STATE BUDGET OR THROUGH AN APPROVED BUDGET AMENDMENT.

(G) THE GOVERNOR SHALL SUBMIT WITH THE STATE BUDGET:

(1) A SUMMARY SHOWING THE UNENCUMBERED BALANCE IN THE FUND AS OF THE CLOSE OF THE PRIOR FISCAL YEAR AND A LISTING OF ANY ENCUMBRANCES;

(2) AN ESTIMATE OF PROJECTED REVENUE FROM EACH OF THE SOURCES SPECIFIED IN SUBSECTION (E) OF THIS SECTION FOR THE FISCAL YEAR FOR WHICH THE STATE BUDGET IS SUBMITTED; AND

(3) A DESCRIPTIVE LISTING OF PROJECTS REFLECTING PROJECTED COSTS FOR THE FISCAL YEAR FOR WHICH THE STATE BUDGET IS SUBMITTED AND ANY ESTIMATED FUTURE YEAR COSTS.

(H) EXPENDITURES FROM THE FUND SHALL BE MADE ONLY:

(1) IN ACCORDANCE WITH AN APPROPRIATION APPROVED BY THE GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

(2) THROUGH AN APPROVED STATE BUDGET AMENDMENT UNDER TITLE 7, SUBTITLE 2, PART II OF THIS ARTICLE, PROVIDED THAT A STATE BUDGET AMENDMENT FOR ANY PROJECT NOT REQUESTED AS PART OF THE STATE BUDGET SUBMISSION OR FOR ANY PROJECT FOR WHICH THE SCOPE OR COST HAS INCREASED BY MORE THAN 5% OR $250,000 SHALL BE SUBMITTED TO THE BUDGET COMMITTEES ALLOWING A 30–DAY PERIOD FOR THEIR REVIEW AND COMMENT.

(I) THE FUND MAY BE USED:

(1) FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS;

(2) AS PROVIDED IN SUBSECTION (J) OF THIS SECTION; OR

(3) NOTWITHSTANDING ~~§ 3A–302(B)(2)~~ § 3A–301(B)(2) OF THIS SUBTITLE, FOR THE COSTS OF THE FIRST 12 MONTHS OF OPERATION AND MAINTENANCE OF A MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT.

(J) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION AND EXCEPT FOR THE COST INCURRED IN ADMINISTERING THE FUND, EACH FISCAL YEAR UP TO $1,000,000 OF THIS FUND MAY BE USED FOR:

(1) EDUCATIONALLY RELATED INFORMATION TECHNOLOGY PROJECTS;

(2) APPLICATION SERVICE PROVIDER INITIATIVES AS PROVIDED FOR IN TITLE 9, SUBTITLE 22 OF THE STATE GOVERNMENT ARTICLE; OR

(3) INFORMATION TECHNOLOGY PROJECTS, INCLUDING:

(I) PILOTS; AND

(II) PROTOTYPES.

(K) A UNIT OF STATE GOVERNMENT OR LOCAL GOVERNMENT MAY SUBMIT A REQUEST TO THE SECRETARY TO SUPPORT THE COST OF AN INFORMATION TECHNOLOGY PROJECT WITH MONEYS UNDER SUBSECTION (J) OF THIS SECTION.

(L) (1) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE SECRETARY SHALL REPORT TO THE GOVERNOR, THE SECRETARY OF BUDGET AND MANAGEMENT, AND TO THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY AND SUBMIT A COPY OF THE REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.

(2) THE REPORT SHALL INCLUDE:

(I) THE FINANCIAL STATUS OF THE FUND AND A SUMMARY OF ITS OPERATIONS FOR THE PRECEDING FISCAL YEAR;

(II) AN ACCOUNTING FOR THE PRECEDING FISCAL YEAR OF ALL MONEYS FROM EACH OF THE REVENUE SOURCES SPECIFIED IN SUBSECTION (E) OF THIS SECTION, INCLUDING ANY EXPENDITURES MADE FROM THE FUND; AND

(III) FOR EACH PROJECT RECEIVING MONEYS FROM THE FUND IN THE PRECEDING FISCAL YEAR AND FOR EACH MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT RECEIVING FUNDING FROM ANY SOURCE OTHER THAN THE FUND IN THE PRECEDING FISCAL YEAR:

1. THE STATUS OF THE PROJECT;

2. A COMPARISON OF ESTIMATED AND ACTUAL COSTS OF THE PROJECT;

3. ANY KNOWN OR ANTICIPATED CHANGES IN SCOPE OR COSTS OF THE PROJECT;

4. AN EVALUATION OF WHETHER THE PROJECT IS USING BEST PRACTICES; AND

5. A SUMMARY OF ANY MONITORING AND OVERSIGHT OF THE PROJECT FROM OUTSIDE THE AGENCY IN WHICH THE

PROJECT IS BEING DEVELOPED, INCLUDING A DESCRIPTION OF ANY PROBLEMS IDENTIFIED BY ANY EXTERNAL REVIEW AND ANY CORRECTIVE ACTIONS TAKEN.

(M) ON OR BEFORE JANUARY 15 OF EACH YEAR, FOR EACH MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT CURRENTLY IN DEVELOPMENT OR FOR WHICH OPERATIONS AND MAINTENANCE FUNDING IS BEING PROVIDED IN ACCORDANCE WITH § 3A–309(I)(3) OF THIS SUBTITLE, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE SECRETARY SHALL PROVIDE A SUMMARY REPORT TO THE DEPARTMENT OF LEGISLATIVE SERVICES WITH THE MOST UP–TO–DATE PROJECT INFORMATION INCLUDING:

(1) PROJECT STATUS;

(2) ANY SCHEDULE, COST, AND SCOPE CHANGES SINCE THE LAST ANNUAL REPORT;

(3) A RISK ASSESSMENT INCLUDING ANY PROBLEMS IDENTIFIED BY ANY INTERNAL OR EXTERNAL REVIEW AND ANY CORRECTIVE ACTIONS TAKEN; AND

(4) ANY CHANGE IN THE MONITORING OR OVERSIGHT STATUS.

3A–310.

THIS SUBTITLE MAY NOT BE CONSTRUED TO GIVE THE SECRETARY AUTHORITY OVER:

(1) THE CONTENT OF EDUCATIONAL APPLICATIONS OR CURRICULUM AT THE STATE OR LOCAL LEVEL; OR

(2) THE ENTITIES THAT MAY PARTICIPATE IN SUCH EDUCATIONAL PROGRAMS.

3A–311.

(A) THE SECRETARY, IN CONSULTATION WITH OTHER UNITS OF STATE GOVERNMENT, AND AFTER PUBLIC COMMENT, SHALL DEVELOP A NONVISUAL ACCESS CLAUSE FOR USE IN THE PROCUREMENT OF INFORMATION TECHNOLOGY AND INFORMATION TECHNOLOGY SERVICES THAT SPECIFIES THAT THE TECHNOLOGY AND SERVICES:

(1) MUST PROVIDE EQUIVALENT ACCESS FOR EFFECTIVE USE BY BOTH VISUAL AND NONVISUAL MEANS;

(2) WILL PRESENT INFORMATION, INCLUDING PROMPTS USED FOR INTERACTIVE COMMUNICATIONS, IN FORMATS INTENDED FOR BOTH VISUAL AND NONVISUAL USE;

(3) CAN BE INTEGRATED INTO NETWORKS FOR OBTAINING, RETRIEVING, AND DISSEMINATING INFORMATION USED BY INDIVIDUALS WHO ARE NOT BLIND OR VISUALLY IMPAIRED; AND

(4) SHALL BE OBTAINED, WHENEVER POSSIBLE, WITHOUT MODIFICATION FOR COMPATIBILITY WITH SOFTWARE AND HARDWARE FOR NONVISUAL ACCESS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE NONVISUAL ACCESS CLAUSE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE INCLUDED IN EACH INVITATION FOR BIDS OR REQUEST FOR PROPOSALS AND IN EACH PROCUREMENT CONTRACT OR MODIFICATION OF A CONTRACT ISSUED UNDER TITLE 13 OF THIS ARTICLE, WITHOUT REGARD TO THE METHOD CHOSEN UNDER TITLE 13, SUBTITLE 1 OF THIS ARTICLE FOR THE PURCHASE OF NEW OR UPGRADED INFORMATION TECHNOLOGY AND INFORMATION TECHNOLOGY SERVICES.

(2) EXCEPT AS PROVIDED IN SUBSECTION (A)(4) OF THIS SECTION, THE NONVISUAL ACCESS CLAUSE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT REQUIRED IF:

(I) THE INFORMATION TECHNOLOGY IS NOT AVAILABLE WITH NONVISUAL ACCESS BECAUSE THE ESSENTIAL ELEMENTS OF THE INFORMATION TECHNOLOGY ARE VISUAL AND NONVISUAL EQUIVALENCE CANNOT BE DEVELOPED; OR

(II) THE COST OF MODIFYING THE INFORMATION TECHNOLOGY FOR COMPATIBILITY WITH SOFTWARE AND HARDWARE FOR NONVISUAL ACCESS WOULD INCREASE THE PRICE OF THE PROCUREMENT BY MORE THAN 5%.

3A–312.

THE SECRETARY MAY DELEGATE THE DUTIES SET FORTH IN THIS SUBTITLE TO CARRY OUT ITS PURPOSES.

SUBTITLE 4. TELECOMMUNICATIONS.

3A–401.

(A) THE DEPARTMENT SHALL:

(1) COORDINATE THE DEVELOPMENT, PROCUREMENT, MANAGEMENT, AND OPERATION OF TELECOMMUNICATION EQUIPMENT, SYSTEMS, AND SERVICES BY STATE GOVERNMENT;

(2) ACQUIRE AND MANAGE COMMON USER TELECOMMUNICATION EQUIPMENT, SYSTEMS, OR SERVICES AND CHARGE UNITS OF STATE GOVERNMENT FOR THEIR PROPORTIONATE SHARE OF THE COSTS OF INSTALLATION, MAINTENANCE, AND OPERATION OF THE COMMON USER TELECOMMUNICATION EQUIPMENT, SYSTEMS, OR SERVICES;

(3) PROMOTE COMPATIBILITY OF TELECOMMUNICATION SYSTEMS BY DEVELOPING POLICIES, PROCEDURES, AND STANDARDS FOR THE ACQUISITION AND USE OF TELECOMMUNICATION EQUIPMENT, SYSTEMS, AND SERVICES BY UNITS OF STATE GOVERNMENT;

(4) COORDINATE STATE GOVERNMENT TELECOMMUNICATION SYSTEMS AND SERVICES BY REVIEWING REQUESTS BY UNITS OF STATE GOVERNMENT FOR TELECOMMUNICATION EQUIPMENT, SYSTEMS, OR SERVICES;

(5) ADVISE UNITS OF STATE GOVERNMENT ABOUT PLANNING, ACQUISITION, AND OPERATION OF TELECOMMUNICATION EQUIPMENT, SYSTEMS, OR SERVICES; AND

(6) PROVIDE RADIO FREQUENCY COORDINATION FOR STATE AND LOCAL GOVERNMENTS IN ACCORDANCE WITH REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION.

(B) THE DEPARTMENT MAY MAKE ARRANGEMENT FOR A USER OTHER THAN A UNIT OF STATE GOVERNMENT TO HAVE ACCESS TO AND USE OF STATE TELECOMMUNICATION EQUIPMENT, SYSTEMS, AND SERVICES AND SHALL CHARGE THE USER ANY APPROPRIATE AMOUNT TO COVER THE COST OF INSTALLATION, MAINTENANCE, AND OPERATION OF THE TELECOMMUNICATION EQUIPMENT, SYSTEM, OR SERVICE PROVIDED.

3A–402.

(A) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO A TELECOMMUNICATION SYSTEM OR SERVICE THAT IS OWNED OR OPERATED BY THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE UNIVERSITY, OR A UNIT OF THE LEGISLATIVE OR JUDICIAL BRANCH.

(B) THE PROVISIONS OF THIS SUBTITLE DO NOT PREEMPT THE AUTHORITY OF THE MARYLAND PUBLIC BROADCASTING COMMISSION TO OWN, OPERATE, OR MANAGE TELECOMMUNICATION EQUIPMENT, SYSTEMS, OR SERVICES.

3A–403.

TELECOMMUNICATIONS, INCLUDING THOSE OF THE MARYLAND PUBLIC BROADCASTING SYSTEM, SHALL BE CONSISTENT WITH STATEWIDE INFORMATION TECHNOLOGY POLICIES AND STANDARDS AND THE STATEWIDE INFORMATION TECHNOLOGY MASTER PLAN.

3A–404.

(A) THE GENERAL ASSEMBLY DECLARES THAT:

(1) IT IS THE POLICY OF THE STATE TO FOSTER TELECOMMUNICATION AND COMPUTER NETWORKING AMONG STATE AND LOCAL GOVERNMENTS, THEIR AGENCIES, AND EDUCATIONAL INSTITUTIONS IN THE STATE;

(2) THERE IS A NEED TO IMPROVE ACCESS, ESPECIALLY IN RURAL AREAS, TO EFFICIENT TELECOMMUNICATION AND COMPUTER NETWORK CONNECTIONS;

(3) IMPROVEMENT OF TELECOMMUNICATION AND COMPUTER NETWORKING FOR STATE AND LOCAL GOVERNMENTS AND EDUCATIONAL INSTITUTIONS PROMOTES ECONOMIC DEVELOPMENT, EDUCATIONAL RESOURCE USE AND DEVELOPMENT, AND EFFICIENCY IN STATE AND LOCAL ADMINISTRATION;

(4) RATES FOR THE INTRASTATE INTER–LATA TELEPHONE COMMUNICATIONS NEEDED FOR EFFECTIVE INTEGRATION OF TELECOMMUNICATION AND COMPUTER RESOURCES ARE PROHIBITIVE FOR MANY SMALLER GOVERNMENTS, AGENCIES, AND INSTITUTIONS; AND

(5) THE USE OF IMPROVED STATE TELECOMMUNICATION AND COMPUTER NETWORKING UNDER THIS SECTION IS INTENDED NOT TO COMPETE WITH COMMERCIAL ACCESS TO ADVANCED NETWORK TECHNOLOGY, BUT RATHER TO FOSTER FUNDAMENTAL EFFICIENCIES IN GOVERNMENT AND EDUCATION FOR THE PUBLIC GOOD.

(B) (1) THE DEPARTMENT SHALL ESTABLISH A TELECOMMUNICATION AND COMPUTER NETWORK IN THE STATE.

(2) THE NETWORK SHALL CONSIST OF:

(I) ONE OR MORE CONNECTION FACILITIES FOR TELECOMMUNICATION AND COMPUTER CONNECTION IN EACH LOCAL ACCESS TRANSPORT AREA (LATA) IN THE STATE; AND

(II) FACILITIES, AUXILIARY EQUIPMENT, AND SERVICES REQUIRED TO SUPPORT THE NETWORK IN A RELIABLE AND SECURE MANNER.

(C) THE NETWORK SHALL BE ACCESSIBLE THROUGH DIRECT CONNECTION AND THROUGH LOCAL INTRA–LATA TELECOMMUNICATIONS TO STATE AND LOCAL GOVERNMENTS AND PUBLIC AND PRIVATE EDUCATIONAL INSTITUTIONS IN THE STATE.

SUBTITLE 5. TELECOMMUNICATIONS ACCESS OF MARYLAND.

3A–501.

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

(B) "BOARD" MEANS THE GOVERNOR'S ADVISORY BOARD FOR TELECOMMUNICATIONS RELAY.

(C) "DUAL PARTY TELEPHONE RELAY PROGRAM" MEANS A SERVICE THAT PROVIDES FULL AND SIMULTANEOUS COMMUNICATION BETWEEN A PERSON OR PERSONS WITH A DISABILITY THAT PREVENTS THEM FROM USING A STANDARD TELEPHONE AND A PERSON OR PERSONS WITHOUT THAT DISABILITY USING CONVENTIONAL TELEPHONE EQUIPMENT OR OTHER TECHNOLOGY OR EQUIPMENT, WHEREBY THE DISABLED PERSON OR PERSONS HAVE THEIR MESSAGE RELAYED THROUGH AN INTERMEDIARY PARTY USING SPECIALIZED TELECOMMUNICATIONS EQUIPMENT.

(D) "PROGRAM" MEANS THE DUAL PARTY TELEPHONE RELAY PROGRAM.

(E) "PROGRAM PARTICIPANT" MEANS A RESIDENT OF THE STATE WHO USES THE DUAL PARTY TELEPHONE RELAY PROGRAM.

(F) "TELECOMMUNICATIONS DEVICE FOR THE DEAF" OR "TDD/TT/TTY" MEANS ALL TYPES OF MECHANICAL DEVICES THAT ENABLE DISABLED INDIVIDUALS TO COMMUNICATE THROUGH MESSAGES SENT AND RECEIVED THROUGH A TELEPHONE OR WIRELESS NETWORK.

(G) (1) "SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT" MEANS ANY COMMUNICATIONS DEVICE THAT ENABLES OR ASSISTS A PERSON WITH A DISABILITY TO COMMUNICATE WITH OTHERS BY MEANS OF THE PUBLIC SWITCHED TELEPHONE NETWORK OR INTERNET PROTOCOL–ENABLED VOICE COMMUNICATIONS SERVICE.

(2) "SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT" INCLUDES:

(I) TDD/TT/TTY;

(II) AMPLIFIERS;

(III) CAPTIONED TELEPHONES;

(IV) VRS EQUIPMENT;

(V) CELL PHONES;

(VI) PAGERS;

(VII) PUFF BLOW DEVICES;

(VIII) BRAILLE–TTY DEVICES; AND

(IX) EQUIPMENT FOR THE MOBILITY DISABLED.

3A–502.

THERE IS A GOVERNOR'S ADVISORY BOARD FOR TELECOMMUNICATIONS RELAY IN THE DEPARTMENT.

3A–503.

~~**THE DEPARTMENT IN CONSULTATION WITH THE BOARD SHALL ESTABLISH AND ADMINISTER A PROGRAM TO PROVIDE COST–EFFICIENT, 24–HOUR, DUAL PARTY RELAY SERVICE TO PROGRAM PARTICIPANTS AT A COMPARABLE LEVEL OF ACCESS AND QUALITY THAT A STANDARD TELECOMMUNICATION SERVICE PROVIDES TO A PERSON WITHOUT A HEARING OR SPEECH DISABILITY.**~~

~~**3A–504.**~~

(A) THE BOARD SHALL BE COMPOSED OF 12 INDIVIDUALS APPOINTED BY THE GOVERNOR, WHO SHALL DESIGNATE THE CHAIR, INCLUDING:

(1) FIVE REPRESENTATIVES OF THE DEAF OR HARD OF HEARING COMMUNITY;

(2) ONE REPRESENTATIVE OF THE MOBILITY–IMPAIRED COMMUNITY WHO REQUIRES THE USE OF SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT;

(3) ONE REPRESENTATIVE OF THE SPEECH–IMPAIRED COMMUNITY WHO REQUIRES THE USE OF SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT;

(4) ONE REPRESENTATIVE OF THE SENIOR CITIZEN COMMUNITY WHO REQUIRES THE USE OF SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT;

(5) ONE REPRESENTATIVE OF THE DEAF–BLIND COMMUNITY; AND

(6) THREE REPRESENTATIVES OF GOVERNMENT, ONE OF WHOM IS A REPRESENTATIVE OF THE PUBLIC SERVICE COMMISSION.

(B) (1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JUNE 30, 2008.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

(C) THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, BUT SHALL BE REIMBURSED FOR ALL REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(D) BY JANUARY 1 OF EACH YEAR, THE BOARD SHALL FILE AN ANNUAL REPORT ON ITS ACTIVITIES TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.

(E) THE BOARD SHALL ADVISE THE DEPARTMENT WITH REGARD TO THE PROGRAM'S:

(1) LEVEL OF ACCESS TO PROGRAM PARTICIPANTS; AND

(2) QUALITY OF SERVICE.

~~3A–505.~~ 3A–504.

(A) THE DEPARTMENT IN CONSULTATION WITH THE BOARD SHALL:

(1) ESTABLISH AND ADMINISTER A PROGRAM TO PROVIDE COST–EFFICIENT, 24–HOUR, DUAL PARTY RELAY SERVICE TO PROGRAM PARTICIPANTS AT A COMPARABLE LEVEL OF ACCESS AND QUALITY THAT A STANDARD TELECOMMUNICATION SERVICE PROVIDES TO A PERSON WITHOUT A HEARING OR SPEECH DISABILITY;

~~(1)~~ (2) DEVELOP THE PROGRAM IN COLLABORATION WITH STATE PROGRAMS CURRENTLY SERVING DISABLED INDIVIDUALS AND WITH COMMUNITY AGENCIES OR OTHER ORGANIZATIONS THAT HAVE ESTABLISHED RELAY PROGRAMS; AND

~~(2)~~ (3) MAINTAIN AN INFORMATION AND REFERRAL SERVICE TO PROVIDE INFORMATION ABOUT THE AVAILABILITY OF THE RELAY SERVICE.

(B) THE DEPARTMENT IN CONSULTATION WITH THE BOARD MAY:

(1) CONTRACT WITH A PRIVATE VENDOR OR NONPROFIT ORGANIZATION TO PROVIDE THE INFORMATION AND REFERRAL SERVICE REQUIRED UNDER SUBSECTION ~~(A)(2)~~ (A)(3) OF THIS SECTION; AND

(2) PROVIDE APPROPRIATE STAFF ASSISTANCE FROM THE DEPARTMENT TO ASSIST THE BOARD IN CARRYING OUT ITS DUTIES UNDER THIS SUBTITLE.

~~3A–506.~~ 3A–505.

THE DEPARTMENT IN CONSULTATION WITH THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

~~3A–507.~~ 3A–506.

(A) THE PROGRAMS UNDER ~~§ 3A–503~~ § 3A–504(A) OF THIS SUBTITLE AND § 3A–602(A) OF THIS TITLE SHALL BE FUNDED AS PROVIDED IN THE STATE BUDGET.

(B) THERE IS A UNIVERSAL SERVICE TRUST FUND CREATED FOR THE PURPOSE OF PAYING THE COSTS OF MAINTAINING AND OPERATING THE PROGRAM UNDER ~~§ 3A–503~~ § 3A–504(A) OF THIS SUBTITLE SUBJECT TO THE LIMITATIONS AND CONTROLS PROVIDED IN THIS SUBTITLE, AND THE PROGRAM UNDER § 3A–602(A) OF THIS TITLE SUBJECT TO THE LIMITATIONS AND CONTROLS PROVIDED IN SUBTITLE 6 OF THIS TITLE. MONEYS IN THE UNIVERSAL SERVICE TRUST FUND SHALL BE HELD IN THE STATE TREASURY.

(C) (1) THE COSTS OF THE PROGRAMS UNDER ~~§ 3A–503~~ § 3A–504(A) OF THIS SUBTITLE AND § 3A–602(A) OF THIS TITLE SHALL BE FUNDED BY REVENUES GENERATED BY A SURCHARGE TO BE PAID BY THE SUBSCRIBERS TO SWITCHED LOCAL EXCHANGE ACCESS SERVICE AND BY OTHER FUNDS AS THE BUDGET MAY PROVIDE.

(2) THE SURCHARGE MAY NOT EXCEED 45 CENTS PER MONTH AND SHALL BE APPLIED TO ALL CURRENT BILLS RENDERED FOR SWITCHED LOCAL EXCHANGE ACCESS SERVICE IN THE STATE. THE SURCHARGE IS PAYABLE AT THE TIME THE BILLS FOR TELEPHONE SERVICE ARE DUE.

(D) (1) THE SECRETARY SHALL ANNUALLY CERTIFY TO THE PUBLIC SERVICE COMMISSION THE COSTS OF THE PROGRAMS UNDER ~~§ 3A–503~~ § 3A–504(A) OF THIS SUBTITLE AND § 3A–602(A) OF THIS TITLE TO BE PAID BY THE UNIVERSAL SERVICE TRUST FUND.

(2) THE PUBLIC SERVICE COMMISSION SHALL DETERMINE THE SURCHARGE NECESSARY TO FUND THE PROGRAMS UNDER ~~§ 3A–503~~ § 3A–504(A) OF THIS SUBTITLE AND § 3A–602(A) OF THIS TITLE AND SHALL, ON 60 DAYS' NOTICE, DIRECT THE AFFECTED TELEPHONE COMPANIES TO ADD THE SURCHARGE TO ALL CURRENT BILLS RENDERED FOR SWITCHED LOCAL EXCHANGE ACCESS SERVICE IN THE STATE.

(E) (1) THE AFFECTED TELEPHONE COMPANIES SHALL ACT AS COLLECTION AGENTS FOR THE UNIVERSAL SERVICE TRUST FUND AND SHALL REMIT ALL PROCEEDS MONTHLY TO THE COMPTROLLER FOR DEPOSIT TO THE UNIVERSAL SERVICE TRUST FUND.

(2) THE TELEPHONE COMPANIES SHALL BE ENTITLED TO CREDIT AGAINST THESE PROCEEDS IN AN AMOUNT EQUAL TO 1 1/2 PERCENT OF THESE PROCEEDS TO COVER THE EXPENSES OF BILLING, COLLECTING, AND REMITTING THE SURCHARGE AND ANY ADDITIONAL CHARGES.

(F) (1) THE SECRETARY SHALL ADMINISTER THE UNIVERSAL SERVICE TRUST FUND.

(2) THE INCOME DERIVED FROM INVESTMENT OF MONEY IN THE FUND SHALL ACCRUE TO THE FUND.

(G) (1) THE LEGISLATIVE AUDITOR SHALL CONDUCT POSTAUDITS OF A FISCAL AND COMPLIANCE NATURE OF THE UNIVERSAL SERVICE TRUST FUND AND THE EXPENDITURES MADE FOR PURPOSES OF ~~§ 3A–503~~ § 3A–504(A) OF THIS SUBTITLE AND § 3A–602(A) OF THIS TITLE.

(2) THE COST OF THE FISCAL PORTION OF THE POSTAUDIT EXAMINATION SHALL BE PAID FROM THE UNIVERSAL SERVICE TRUST FUND AS AN ADMINISTRATIVE COST.

SUBTITLE 6. TELECOMMUNICATIONS DEVICES AND DISTRIBUTION OF ACCESSIBLE INFORMATION FOR DISABLED INDIVIDUALS.

3A–601.

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

(B) "BOARD" MEANS THE GOVERNOR'S ADVISORY BOARD FOR TELECOMMUNICATIONS RELAY ESTABLISHED IN SUBTITLE 5 OF THIS TITLE.

(C) "PROGRAM" MEANS THE PROGRAM DEVELOPED AND ADMINISTERED BY THE DEPARTMENT IN CONSULTATION WITH THE BOARD AND THE DEPARTMENT OF DISABILITIES TO PROVIDE FINANCIAL ASSISTANCE FOR THE PURCHASE OF SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT BY ELIGIBLE PROGRAM PARTICIPANTS.

(D) "PROGRAM PARTICIPANT" MEANS A PERSON WHO:

(1) IS A RESIDENT OF THE STATE;

(2) IS CERTIFIED BY A LICENSED PROFESSIONAL AS HAVING A DISABILITY WHICH SERIOUSLY LIMITS OR PROHIBITS THE USE OF THE TELEPHONE OR WIRELESS NETWORK WITHOUT SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT;

(3) IS CERTIFIED BY A LICENSED PROFESSIONAL AS BEING ABLE TO USE SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT FOR WHICH APPLICATION IS MADE;

(4) MEETS THE FINANCIAL ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF DISABILITIES AS A RECIPIENT OF:

(I) TRANSITIONAL EMERGENCY MEDICAL AND HOUSING ASSISTANCE (TEMHA);

(II) SUPPLEMENTAL SECURITY INCOME (SSI);

(III) SOCIAL SECURITY DISABILITY INCOME (SSDI); OR

(IV) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF); AND

(5) AT THE TIME OF APPLICATION IS NOT RECEIVING SIMILAR SERVICES WHICH ARE AVAILABLE AND CAN BE PROVIDED IN A TIMELY MANNER THROUGH ANOTHER PROGRAM.

(E) "QUALIFIED ENTITY" MEANS A NONPROFIT ORGANIZATION THAT:

(1) PRODUCES AUDIO EDITIONS OF DAILY NEWSPAPERS, AVAILABLE FOR INTERSTATE DISTRIBUTION USING HIGH–SPEED COMPUTER AND TELECOMMUNICATIONS TECHNOLOGY; AND

(2) PROVIDES A MEANS OF PROGRAM ADMINISTRATION AND READER REGISTRATION ON THE INTERNET.

(F) "SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT" OR "EQUIPMENT" MEANS ANY COMMUNICATIONS DEVICE DESIGNED TO ASSIST PROGRAM PARTICIPANTS IN USING A TELEPHONE OR WIRELESS SERVICE PROVIDER'S NETWORK.

(G) "SYSTEM" MEANS THE METHOD WHICH THE DEPARTMENT SHALL USE TO PROVIDE EQUIPMENT TO ELIGIBLE PROGRAM PARTICIPANTS.

3A–602.

(A) IN ACCORDANCE WITH THE STATE BUDGET AND ~~§ 3A–507~~ § 3A–506 OF THIS TITLE, THE DEPARTMENT, IN CONSULTATION WITH THE BOARD AND THE DEPARTMENT OF DISABILITIES, SHALL ESTABLISH AND ADMINISTER A PROGRAM:

(1) TO PROVIDE SPECIALIZED CUSTOMER TELEPHONE EQUIPMENT TO ELIGIBLE PROGRAM PARTICIPANTS; AND

(2) TO PROVIDE REIMBURSEMENT OF COSTS UNDER § 3A–606 OF THIS SUBTITLE.

(B) (1) IN THIS SUBSECTION, "SHOPPING FACILITY" MEANS AN OUTDOOR OR INDOOR RETAIL FACILITY WITH A COMMON PEDESTRIAN AREA HOUSING MORE THAN FIVE SALES OR RENTAL ESTABLISHMENTS IN WHICH A MAJORITY OF THE TENANTS HAVE A MAIN ENTRANCE FROM THE COMMON PEDESTRIAN AREA.

(2) THIS SUBSECTION APPLIES TO A SHOPPING FACILITY THAT:

(I) PROVIDES A TOTAL NUMBER OF FOUR OR MORE PUBLIC PAY TELEPHONES AT THE FACILITY OF WHICH AT LEAST ONE IS LOCATED IN THE COMMON PEDESTRIAN AREA; AND

(II) IS LARGER THAN 500,000 SQUARE FEET.

(3) IN ACCORDANCE WITH THE STANDARDS AND REGULATIONS ESTABLISHED BY THE DEPARTMENT, THE OWNER, OPERATOR, MANAGER, OR OTHER PERSON HAVING CONTROL OF A SHOPPING FACILITY SHALL ACQUIRE AND INSTALL AT LEAST ONE SPECIALIZED COMMUNICATIONS DEVICE DESIGNED TO ENABLE CUSTOMERS WITH HEARING OR SPEECH DISABILITIES TO ACCESS A TELEPHONE OR WIRELESS SERVICE PROVIDERS NETWORK.

3A–603.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE BOARD AND THE DEPARTMENT OF DISABILITIES, SHALL:

(1) PROVIDE A SYSTEM FOR ELIGIBLE PROGRAM PARTICIPANTS TO OBTAIN EQUIPMENT, BUT NO SINGLE ELIGIBLE PARTICIPANT SHALL RECEIVE MORE THAN $6,000;

(2) ESTABLISH AN INFORMATION AND REFERRAL SERVICE, INCLUDING THE TOLL–FREE NUMBERS FOR THE VARIOUS ACCESS MODES FOR THE MARYLAND RELAY SERVICE AND PROVIDE INFORMATION ABOUT THE AVAILABILITY OF THE EQUIPMENT;

(3) CONTRACT WITH PRIVATE VENDORS OR NONPROFIT ORGANIZATIONS TO PROVIDE THE INFORMATION AND REFERRAL SERVICE AND OTHER AUXILIARY SERVICES;

(4) AS NECESSARY, ESTABLISH INTERAGENCY AGREEMENTS WITH OTHER STATE AGENCIES THAT PROVIDE TECHNICAL ASSISTANCE FOR DISABLED INDIVIDUALS TO PREVENT DUPLICATIVE PROGRAMS; AND

(5) APPOINT APPROPRIATE STAFF TO ASSIST THE BOARD IN CARRYING OUT ITS ACTIVITIES UNDER THIS SUBTITLE.

(B) THE BOARD AND THE DEPARTMENT OF DISABILITIES SHALL:

(1) ASSIST THE DEPARTMENT IN THE DEVELOPMENT OF REGULATIONS;

(2) DEVELOP AND IMPLEMENT EDUCATIONAL OUTREACH PROGRAMS;

(3) REVIEW AND MONITOR THE PROGRAM; AND

(4) ADVISE THE DEPARTMENT ON UNUSUAL HARDSHIP CASES.

3A–604.

THIS SUBTITLE MAY NOT BE CONSTRUED TO ESTABLISH AN ENTITLEMENT PROGRAM.

3A–605.

THE DEPARTMENT IN CONSULTATION WITH THE BOARD AND THE DEPARTMENT OF DISABILITIES SHALL ADOPT REGULATIONS TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

3A–606.

(A) THE DEPARTMENT IN CONSULTATION WITH THE BOARD AND THE DEPARTMENT OF DISABILITIES SHALL ENTER INTO AN AGREEMENT WITH THE STATE DEPARTMENT OF EDUCATION, DIVISION OF LIBRARY DEVELOPMENT AND SERVICES, PROVIDING FOR AN ANNUAL PAYMENT TO BE MADE TO THE DIVISION IN AN AMOUNT EQUAL TO THE COST INCURRED FOR THE DISTRIBUTION OF NEWSPAPERS IN A COMPUTERIZED AUDIO FORMAT.

(B) UNDER THE AGREEMENT, THE DIVISION OF LIBRARY DEVELOPMENT AND SERVICES SHALL PROVIDE ELIGIBLE BLIND AND DISABLED INDIVIDUALS WITH ACCESS TO NEWSPAPERS IN A COMPUTERIZED AUDIO FORMAT BY A QUALIFIED ENTITY.

11–101.

(l) "Primary procurement units" means:

(1) the State Treasurer;

(2) the Department of Budget and Management;

(3) the Department of General Services;

(4) the Department of Transportation;

(5) THE DEPARTMENT OF INFORMATION TECHNOLOGY;

[(5)**] (6)** the University System of Maryland;

[(6)**] (7)** the Maryland Port Commission;

[(7)**] (8)** the Department of Public Safety and Correctional Services;

[(8)**] (9)** the Morgan State University; and

[(9)**] (10)** the St. Mary's College of Maryland.

12–107.

(b) Subject to the authority of the Board, jurisdiction over procurement is as follows:

(2) the Department of Budget and Management may control procurement of:

(i) **[**information processing equipment and associated services, as provided in Title 3, Subtitle 4 of this article;

(ii)**]** services by a unit, subject to any limitation in this Division II; and

[(iii)**] (II)** leases of motor vehicles, as provided in Title 3, Subtitle 5 of this article;

(5) the Maryland Port Commission, without the approval of any of the other primary procurement units, may engage in the procurement of:

(i) supplies for port related activities, including motor vehicles and information processing supplies, but excluding:

1. supplies funded by the proceeds from State general obligation bonds; and

2. insurance;

(ii) services for port related activities, including information processing services, but excluding banking and financial services under the authority of the State Treasurer under item (1) of this subsection;

(iii) construction and construction related services for a port facility as defined in § 6–101(e) of the Transportation Article;

(iv) port related architectural and engineering services under Title 13, Subtitle 3 of this article; and

(v) leases of real property for port related activities unless the lease payments are from the General Fund of the State; **[**and**]**

(6) the Department of Public Safety and Correctional Services may, without the approval of any of the other primary procurement units:

(i) engage in the procurement of construction and construction related services for State correctional facilities; and

(ii) engage in the procurement of supplies, materials, and equipment in support of construction and construction related services for State correctional facilities in accordance with this Division II and Title 2 and Title 10, Subtitle 1 of the Correctional Services Article**; AND**

(7) THE DEPARTMENT OF INFORMATION TECHNOLOGY MAY CONTROL PROCUREMENT OF:

(I) INFORMATION PROCESSING EQUIPMENT AND ASSOCIATED SERVICES, AS PROVIDED IN TITLE 3A, SUBTITLE 3 OF THIS ARTICLE~~.~~; AND

(II) TELECOMMUNICATION EQUIPMENT, SYSTEMS, OR SERVICES, AS PROVIDED IN TITLE 3A, SUBTITLE 4 OF THIS ARTICLE.

13–401.

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

(b) "Information technology" has the meaning stated in **[**§ 3–402**]** **~~§ 3A–302~~ § 3A–301** of this article.

(c) "Secretary" means the Secretary of **[**Budget and Management**]** **INFORMATION TECHNOLOGY**.

13–402.

(a) **[**By regulation, the**]** **THE** Secretary shall adopt a streamlined procurement process for procurement of information technology services that provides for the qualification of an offeror in one or more categories of information technology services.

14–501.

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

(b) "Designated procurement unit" means:

(1) the State Treasurer;

(2) the Department of **[**Budget and Management**]** **INFORMATION TECHNOLOGY**;

(3) the Department of Business and Economic Development;

(4) the Department of the Environment;

(5) the Department of General Services;

(6) the Department of Health and Mental Hygiene;

(7) the Department of Housing and Community Development;

(8) the Department of Human Resources;

(9) the Department of Juvenile Services;

(10) the Department of Labor, Licensing, and Regulation;

(11) the Department of Natural Resources;

(12) the State Department of Education;

(13) the Department of State Police;

(14) the Department of Public Safety and Correctional Services;

(15) the Department of Transportation;

(16) the University System of Maryland;

(17) the Maryland Port Commission;

(18) the State Retirement Agency;

(19) the Maryland Insurance Administration;

(20) the Maryland Stadium Authority;

(21) the State Lottery Agency; and

(22) the Morgan State University.

SECTION 3. AND BE IT FURTHER ENACTED, That, on July 1, 2008, all the functions, powers, duties, equipment, assets, liabilities, and employees of the Office of Information Technology in the Department of Budget and Management shall be transferred to the Department of Information Technology.

SECTION 4. AND BE IT FURTHER ENACTED, That all appropriations, including State and federal funds, held by the Department of Budget and Management to carry out the functions and programs transferred under this Act shall be transferred to the Department of Information Technology on the effective date of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That an employee transferred under this Act shall be appointed without further examination or qualification. The employee shall be placed in a classification that is comparable in duties and responsibilities to the employee's former position. The employee may not suffer a diminution of salary or wages, accrued leave, whether earned or granted, or seniority rights.

SECTION 6. AND BE IT FURTHER ENACTED, That nothing in this Act affects the terms of office of an appointed or elected member of any division, board, commission, authority, council, committee, office, or unit. An individual who is a member of a division, board, commission, authority, council, committee, office, or unit on the effective date of this Act shall remain a member for the balance of the term to which the member is appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 7. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction affected by or flowing from any statute here amended, repealed, or transferred, and validly entered into before the effective date of this Act, and every right, duty, or interest following from the transaction, remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced pursuant to law.

SECTION 8. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by

the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2008 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 9. AND BE IT FURTHER ENACTED, That, except as otherwise provided by law, all existing laws, rules and regulations, proposed rules and regulations, standards and guidelines, policies, orders and other directives, forms, plans, memberships, contracts, property, investigations, administrative and judicial responsibilities, rights to sue and be sued, and all other duties and responsibilities associated with the functions of the Department of Budget and Management's Office of Information Technology prior to the effective date of this Act shall continue in effect under the Department of Information Technology until completed, withdrawn, canceled, modified, or otherwise changed pursuant to law.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 10

(Senate Bill 46)

AN ACT concerning

~~**Sales and Use Tax – Computer Services**~~
Budget Financing Act

FOR the purpose of altering the distribution of the sales and use tax revenue; altering the State income tax rate for certain income of individuals for certain taxable years; altering the definition of "taxable service" under the sales and use tax to repeal the tax on certain computer services; providing certain sales and use tax exemptions relating to certain computer services and certain computer software maintenance contracts; repealing a certain termination date; repealing a certain definition; making a technical correction; requiring the Comptroller to waive certain interest and penalties for a certain taxable year to a certain extent; stating the intent of the General Assembly that the Governor present to the Board of Public Works a certain schedule for reductions to certain expenditures from the State budget for a certain fiscal year; providing for the application of

certain provisions of this Act; and generally relating to ~~the repeal of the sales and use tax on certain computer services~~ Maryland State taxes and the financing of State government.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–1302.2
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 6 of the Acts of the General Assembly of the 2007 Special Session)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–102.1(d)(1)(i), 10–105(a), 11–101(m), and 11–219
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 3 of the Acts of the General Assembly of the 2007 Special Session)

BY repealing
Article – Tax – General
Section 11–101(c–1)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 3 of the Acts of the General Assembly of the 2007 Special Session)

~~BY repealing and reenacting, with amendments,~~
~~Article – Tax – General~~
~~Section 11–101(m) and 11–219~~
~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2007 Supplement)~~
~~(As enacted by Chapter 3 of the Acts of the General Assembly of the 2007 Special Session)~~

BY repealing and reenacting, with amendments,
Chapter 3 of the Acts of the General Assembly of the 2007 Special Session
Section 13

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

Article – Tax – General

2–1302.2.

After making the distributions required under §§ 2–1301 through 2–1302.1 of this subtitle, the Comptroller shall pay **[**6.5% of the remaining sales and use tax revenue**]** into the Transportation Trust Fund established under § 3–216 of the Transportation Article**:**

(1) FOR EACH FISCAL YEAR BEGINNING BEFORE JULY 1, 2013, 5.3% OF THE REMAINING SALES AND USE TAX REVENUE; AND

(2) FOR EACH FISCAL YEAR BEGINNING ON OR AFTER JULY 1, 2013, 6.5% OF THE REMAINING SALES AND USE TAX REVENUE.

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

Article – Tax – General

10–102.1.

(d) (1) Except as provided in paragraph (2) of this subsection, the tax imposed under subsection (b) of this section is the sum of:

(i) a rate equal to the sum of the rate of the tax imposed under § 10–106.1 of this subtitle and the top marginal State tax rate for individuals under **[**§ 10–105(a)(4)**]** **§ 10–105(A)** of this subtitle applied to the sum of each nonresident individual member's distributive share or pro–rata share of a pass–through entity's nonresident taxable income; and

10–105.

(a) (1) **[**For**]** **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FOR** an individual other than an individual described in paragraph (2) of this subsection, the State income tax rate is:

(i) 2% of Maryland taxable income of $1 through $1,000;

(ii) 3% of Maryland taxable income of $1,001 through $2,000;

(iii) 4% of Maryland taxable income of $2,001 through $3,000;

(iv) 4.75% of Maryland taxable income of $3,001 through $150,000;

(v) 5% of Maryland taxable income of $150,001 through $300,000;

(vi) 5.25% of Maryland taxable income of $300,001 through $500,000; and

(vii) 5.5% of Maryland taxable income in excess of $500,000.

(2) **[**For**]** **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FOR** spouses filing a joint return or for a surviving spouse or head of household as defined in § 2 of the Internal Revenue Code, the State income tax rate is:

(i) 2% of Maryland taxable income of $1 through $1,000;

(ii) 3% of Maryland taxable income of $1,001 through $2,000;

(iii) 4% of Maryland taxable income of $2,001 through $3,000;

(iv) 4.75% of Maryland taxable income of $3,001 through $200,000;

(v) 5% of Maryland taxable income of $200,001 through $350,000;

(vi) 5.25% of Maryland taxable income of $350,001 through $500,000; and

(vii) 5.5% of Maryland taxable income in excess of $500,000.

(3) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2007, BUT BEFORE JANUARY 1, 2011, THE STATE INCOME TAX FOR AN INDIVIDUAL, INCLUDING SPOUSES FILING A JOINT RETURN OR A SURVIVING SPOUSE OR HEAD OF HOUSEHOLD AS DEFINED IN § 2 OF THE INTERNAL REVENUE CODE, IS:

(I) FOR MARYLAND TAXABLE INCOME UP TO $500,000, THE RATE SPECIFIED IN PARAGRAPH (1)(I) THROUGH (VI) OR (2)(I) THROUGH (VI) OF THIS SUBSECTION; AND

(II) FOR MARYLAND TAXABLE INCOME IN EXCESS OF $500,000:

1. 5.5% OF MARYLAND TAXABLE INCOME OF $500,001 THROUGH $1,000,000; AND

2. 6.25% OF MARYLAND TAXABLE INCOME IN EXCESS OF $1,000,000.

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

Article – Tax – General

11–101.

[(c–1) (1) "Computer service" includes:

(i) computer facilities management and operation;

(ii) custom computer programming;

(iii) computer system planning and design that integrate computer hardware, software, and communication technologies;

(iv) computer disaster recovery;

(v) data processing, storage, and recovery;

(vi) hardware or software installation, maintenance, and repair.

(2) "Computer service" does not include:

(i) Internet access, as defined in the federal Internet Tax Freedom Act;

(ii) typing or data entry on word processing equipment;

(iii) computer training;

(iv) the installation, maintenance, or repair of tangible personal property other than computer hardware or software that includes computer hardware or software as a component part; or

(v) a service otherwise described in paragraph (1) of this subsection that is provided as part of or in connection with:

1. electronic fund transfers, financial transactions, automated teller machine transactions, or other banking or trust services;

2. business management, account management, personnel, payroll, employee benefit, or other administrative services;

3. educational, legal, accounting, architectural, actuarial, medical, medical diagnostic, or other professional services; or

4. telecommunications services.**]**

(m) "Taxable service" means:

(1) fabrication, printing, or production of tangible personal property by special order;

(2) commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles;

(3) cleaning of a commercial or industrial building;

(4) cellular telephone or other mobile telecommunications service;

(5) "900", "976", "915", and other "900"–type telecommunications service;

(6) custom calling service provided in connection with basic telephone service;

(7) a telephone answering service;

(8) pay per view television service;

(9) credit reporting;

(10) a security service, including:

(i) a detective, guard, or armored car service; and

(ii) a security systems service;

(11) a transportation service for transmission, distribution, or delivery of electricity or natural gas, if the sale or use of the electricity or natural gas is subject to the sales and use tax; **OR**

(12) a prepaid telephone calling arrangement**[**; or

(13) a computer service**]**.

11–219.

(a) The sales and use tax does not apply to a personal, professional, or insurance service that:

(1) is not a taxable service; and

(2) involves a sale as an inconsequential element for which no separate charge is made.

(b) The sales and use tax does not apply to a sale of **[**computer services for use by an individual participating in a home school program as an alternative to attendance at public or private school for elementary or secondary education**]** **CUSTOM COMPUTER SOFTWARE SERVICES RELATING TO PROCEDURES AND PROGRAMS THAT:**

(1) OTHERWISE ARE TAXABLE UNDER THIS TITLE;

(2) ARE TO BE USED BY A SPECIFIC PERSON;

(3) (I) ARE CREATED FOR THAT PERSON; OR

(II) CONTAIN STANDARD OR PROPRIETARY ROUTINES THAT INCORPORATE SIGNIFICANT CREATIVE INPUT TO CUSTOMIZE THE PROCEDURES AND PROGRAMS FOR THAT PERSON; AND

(4) DO NOT CONSTITUTE A PROGRAM, PROCEDURE, OR DOCUMENTATION THAT IS MASS PRODUCED AND SOLD TO:

(I) THE GENERAL PUBLIC; OR

(II) PERSONS ASSOCIATED IN A TRADE, PROFESSION, OR INDUSTRY.

(C) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF AN OPTIONAL COMPUTER SOFTWARE MAINTENANCE CONTRACT IF THE BUYER DOES NOT HAVE A RIGHT, AS PART OF THE CONTRACT, TO RECEIVE AT NO ADDITIONAL COST SOFTWARE PRODUCTS THAT ARE SEPARATELY PRICED AND MARKETED BY THE VENDOR.

[(c)**] (D)** The sales and use tax does not apply to the use of a taxable service obtained by using a prepaid telephone calling arrangement.

Chapter 3 of the Acts of the 2007 Special Session

SECTION 13. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect July 1, 2008. **[**Section 3 shall remain effective for a period of 5 years and, at the end of June 30, 2013, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.**]**

SECTION 4. AND BE IT FURTHER ENACTED, That the Comptroller shall waive any interest or penalty imposed on an individual relating to payment of estimated income tax for calendar year 2008 to the extent that the Comptroller determines that the interest or penalty would not have been incurred but for an increase in the income tax rates for calendar year 2008 under Section 2 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, on or before July 1, 2008, the Governor shall present to the Board of Public Works a schedule for reduction of at least $50,000,000 in ongoing general fund expenditures from the fiscal 2009 State budget in accordance with § 7–213 of the State Finance and Procurement Article.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2007.

SECTION ~~2.~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 11

(Senate Bill 7)

AN ACT concerning

Task Force to Study the Boating Industry in Maryland

FOR the purpose of altering the date by which the Task Force to Study the Boating Industry in Maryland is required to submit its findings and recommendations to the Governor and the General Assembly; altering the date for the termination of the Task Force; and generally relating to the Task Force to Study the Boating Industry in Maryland.

BY repealing and reenacting, with amendments,
Chapter 523 of the Acts of the General Assembly of 2007
Section 1 and 2

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

Chapter 523 of the Acts of 2007

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study the Boating Industry in Maryland.

(b) The Task Force consists of the following members:

(1) One member of the Senate of Maryland, appointed by the President of the Senate;

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The Secretary of Natural Resources, or the Secretary's designee;

(4) The Secretary of Business and Economic Development, or the Secretary's designee;

(5) The Secretary of the Environment, or the Secretary's designee; and

(6) The following members, appointed by the Governor:

(i) Two representatives from the Marine Trade Association of Maryland;

(ii) Two representatives from local tourism boards or visitor bureaus that are from counties that border the Chesapeake Bay;

(iii) One representative from a local yacht club;

(iv) One owner and operator of a marina in the State;

(v) One owner or operator of a boat dealership in the State; and

(vi) One representative from the Maryland Tourism Council.

(c) The President of the Senate and the Speaker of the House of Delegates jointly shall designate the chair of the Task Force.

(d) The Task Force may establish subcommittees as it determines necessary to fulfill its duties.

(e) The Department of Business and Economic Development and the Department of Natural Resources shall provide staff for the Task Force.

(f) A member of the Task Force may not receive compensation for serving as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Task Force shall:

(1) Evaluate and make recommendations regarding growing the boating industry within the State, including:

(i) Evaluating incentives to encourage large boats and yachts to use marinas and boatyards for recreation, repair, and outfitting within the State;

(ii) Determining ways to encourage and promote tourism throughout waters of the State;

(iii) Researching the economic impact that marine industries and recreational boaters contribute to the State's economy; and

(iv) Identifying barriers that limit the State's competitiveness with other states regarding the boating industry and developing methods to overcome these barriers; and

(2) (i) On or before November 30, 2007, submit a preliminary report of its findings and recommendations 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; and

(ii) On or before **[**June 30**]** **DECEMBER 31**, 2008, submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of **[**1 year and 1 month**]** **2 YEARS** and, at the end of **[**July 31, 2008**]** **JUNE 30, 2009**, 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 12

(House Bill 17)

AN ACT concerning

Task Force to Study the Boating Industry in Maryland

FOR the purpose of altering the date by which the Task Force to Study the Boating Industry in Maryland is required to submit its findings and recommendations to the Governor and the General Assembly; altering the date for the termination of the Task Force; and generally relating to the Task Force to Study the Boating Industry in Maryland.

BY repealing and reenacting, with amendments,
Chapter 523 of the Acts of the General Assembly of 2007
Section 1 and 2

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

Chapter 523 of the Acts of 2007

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study the Boating Industry in Maryland.

(b) The Task Force consists of the following members:

(1) One member of the Senate of Maryland, appointed by the President of the Senate;

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The Secretary of Natural Resources, or the Secretary's designee;

(4) The Secretary of Business and Economic Development, or the Secretary's designee;

(5) The Secretary of the Environment, or the Secretary's designee; and

(6) The following members, appointed by the Governor:

(i) Two representatives from the Marine Trade Association of Maryland;

(ii) Two representatives from local tourism boards or visitor bureaus that are from counties that border the Chesapeake Bay;

(iii) One representative from a local yacht club;

(iv) One owner and operator of a marina in the State;

(v) One owner or operator of a boat dealership in the State; and

(vi) One representative from the Maryland Tourism Council.

(c) The President of the Senate and the Speaker of the House of Delegates jointly shall designate the chair of the Task Force.

(d) The Task Force may establish subcommittees as it determines necessary to fulfill its duties.

(e) The Department of Business and Economic Development and the Department of Natural Resources shall provide staff for the Task Force.

(f) A member of the Task Force may not receive compensation for serving as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Task Force shall:

(1) Evaluate and make recommendations regarding growing the boating industry within the State, including:

(i) Evaluating incentives to encourage large boats and yachts to use marinas and boatyards for recreation, repair, and outfitting within the State;

(ii) Determining ways to encourage and promote tourism throughout waters of the State;

(iii) Researching the economic impact that marine industries and recreational boaters contribute to the State's economy; and

(iv) Identifying barriers that limit the State's competitiveness with other states regarding the boating industry and developing methods to overcome these barriers; and

(2) (i) On or before November 30, 2007, submit a preliminary report of its findings and recommendations 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; and

(ii) On or before **[**June 30**]** **DECEMBER 31**, 2008, submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of **[**1 year and 1 month**]** **2 YEARS** and, at the end of **[**July 31, 2008**]** **JUNE 30, 2009**, 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 13

(Senate Bill 10)

AN ACT concerning

Criminal Procedure Article Additions – Cross–References and Corrections

FOR the purpose of correcting certain cross–references to new Title 15 and new Title 16 of the Criminal Procedure Article of the Annotated Code of Maryland that revise provisions of law that relate to the Office of the State Prosecutor, the Office of the State's Attorney, and the Office of the Public Defender, respectively; and generally relating to new Titles 15 and 16 of the Criminal Procedure Article and cross–references to them.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 6–113
Annotated Code of Maryland
(1999 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–20(e)(3)(ii) and 10–4A–04(c)(2)(ii)1.
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 8–103(b)(3) and 11–903
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–302(d)(2), 9–268.1(b)(2), and 9–344(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law

Section 5–307(a)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Correctional Services

6–113.

The Division and the Division of Correction shall keep the report submitted under **[**Article 10, § 40A**] § 15–105 OF THE CRIMINAL PROCEDURE ARTICLE** on file so that each unit has an abstract of each case for which application for parole may be made under this article.

Article – Courts and Judicial Proceedings

3–8A–20.

(e) (3) (ii) After entry of its appearance, the Office of the Public Defender shall verify eligibility for continued public defender representation in accordance with **[**Article 27A, § 7 of the Code**] § 16–210 OF THE CRIMINAL PROCEDURE ARTICLE** and the Maryland Rules.

10–4A–04.

(c) (2) (ii) A provider of electronic communications service or remote computing service shall disclose a record or other information pertaining to a subscriber to or a customer of the service to an investigative or law enforcement officer only if the officer:

1. Uses a subpoena issued by a court of competent jurisdiction, a State grand jury subpoena, or a subpoena authorized under **[**Article 10, § 39A of the Code**] § 15–108 OF THE CRIMINAL PROCEDURE ARTICLE**;

Article – Criminal Procedure

8–103.

(b) The counsel representing a person for a sentence review may be:

(3) provided under **[**Article 27A of the Code**]** **TITLE 16 OF THIS ARTICLE**.

11–903.

The State's Attorneys' Coordinator shall carry out the Program in accordance with regulations that the State's Attorneys' Coordination Council adopts under **[**Article 10, § 41D of the Code**]** **§ 15–205 OF THIS ARTICLE**.

Article – Environment

1–302.

(d) (2) The provisions of this section may not limit or affect the power or authority of **[**the State's Attorney for each county and the City of Baltimore under Article 10, § 34 of the Code**]** **STATE'S ATTORNEYS UNDER § 15–102 OF THE CRIMINAL PROCEDURE ARTICLE**.

9–268.1.

(b) (2) This subsection may not limit or affect the power of **[**the State's Attorney for a county under Article 10, § 34 of the Code**]** **STATE'S ATTORNEYS UNDER § 15–102 OF THE CRIMINAL PROCEDURE ARTICLE**.

9–344.

(b) The provisions of this section may not limit or affect the power or authority of **[**the State's Attorney for each county and the City of Baltimore under Article 10, § 34 of the Code**]** **STATE'S ATTORNEYS UNDER § 15–102 OF THE CRIMINAL PROCEDURE ARTICLE**.

Article – Family Law

5–307.

(a) (1) Unless the public defender is required under **[**Article 27A, § 4 of the Code**]** **§ 16–204 OF THE CRIMINAL PROCEDURE ARTICLE** to provide representation, in a case under Part II or Part III of this subtitle, a juvenile court shall appoint an attorney to represent a parent who:

(i) has a disability that makes the parent incapable of effectively participating in the case; or

(ii) when a petition for guardianship or adoption is filed or consent to guardianship or adoption is given, is a minor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 14

(Senate Bill 28)

AN ACT concerning

All–Terrain ~~Vehicles – Protective Headgear~~ Vehicle Safety Task Force

FOR the purpose of ~~prohibiting an individual under a certain age from operating or riding on an all–terrain vehicle unless the individual is wearing protective headgear that meets certain standards; defining a certain term; and generally relating to required equipment for individuals operating or riding on all–terrain vehicles~~ establishing an All–Terrain Vehicle Safety Task Force; providing for the membership and duties of the Task Force; requiring the Task Force to select a chair from among its members; providing for the staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation; requiring the Task Force to report to the Governor and the General Assembly by certain dates; providing for the termination of this Act; and generally relating to the establishment of an All–Terrain Vehicle Safety Task Force.

~~BY adding to~~
~~Article – Transportation~~
~~Section 21–1207.3~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

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

~~**Article – Transportation**~~

~~**21–1207.3.**~~

~~**(A) IN THIS SECTION, "ALL–TERRAIN VEHICLE" MEANS A MOTOR VEHICLE THAT:**~~

~~**(1) IS DESIGNED TO TRAVEL OFF–HIGHWAY;**~~

~~**(2) IS DESIGNED TO TRAVEL ON THREE OR FOUR LOW PRESSURE TIRES;**~~

~~**(3) HAS A SEAT DESIGNED TO BE STRADDLED BY THE OPERATOR; AND**~~

~~**(4) HAS HANDLEBARS FOR STEERING CONTROL.**~~

~~**(B) AN INDIVIDUAL UNDER THE AGE OF 16 YEARS MAY NOT OPERATE OR RIDE ON AN ALL–TERRAIN VEHICLE UNLESS THE INDIVIDUAL IS WEARING PROTECTIVE HEADGEAR THAT MEETS THE STANDARDS ESTABLISHED BY THE ADMINISTRATOR FOR MOTORCYCLE HELMETS UNDER § 21–1306 OF THIS TITLE.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.~~

(a) There is an All–Terrain Vehicle (ATV) Safety Task Force.

(b) The Task Force shall consist of the following members:

(1) the Secretary of Natural Resources, or the Secretary's designee;

(2) the Secretary of Transportation, or the Secretary's designee;

(3) the Executive Director of ABATE of Maryland, Inc., or the Executive Director's designee;

~~(3)~~ *(4)* one representative of the Office of Injury Prevention of the Department of Health and Mental Hygiene, appointed by the Secretary of Health and Mental Hygiene; ~~and~~

(5) one representative of the Maryland Legislative Sportsmen's Foundation, appointed by the Board of Directors of the Foundation; and

~~(4)~~ *(6)* the following members, appointed by the ~~Executive Director of the Maryland Institute for Emergency Medical Services Systems~~ *Governor*:

(i) one representative of TraumaNet;

(ii) one representative of the Maryland Chapter of the American College of Emergency Physicians;

(iii) one representative of the Maryland Chapter of the American Academy of Pediatrics;

(iv) one representative of the Maryland Chapter of the American Trauma Society;

(v) one representative of the Maryland Emergency Nurses Association;

(vi) one representative of Johns Hopkins School of Public Health;

(vii) one representative of Children's National Medical Center;

(viii) one member representing the interests of ATV dealers;

(ix) one member representing the interests of private ATV recreational parks;

(x) one member representing the interests of providers of property, casualty, and health insurance in the State;

(xi) one representative of the ATV Safety Institute;

(xii) one representative of the Specialty Vehicle Institute of America;

(xiii) one representative of the Maryland Institute for Emergency Medical Services Systems;

(xiv) one representative of the Maryland State Firemen's Association; *and* ~~and~~

(xv) one representative of a Maryland ATV club from each of the following regions:

1. western Maryland;

2. southern Maryland;

3. the eastern shore of Maryland; and

4. central Maryland~~; and~~

~~(xvi) the Executive Director of ABATE of Maryland, Inc., or the Executive Director's designee~~.

(c) From among its members, the Task Force shall select a chair of the Task Force.

(d) The Maryland Institute for Emergency Medical Services Systems shall provide staff for the Task Force.

(e) A member of the Task Force may not receive compensation as a member of the Task Force.

(f) The Task Force shall identify and study major issues related to ATV safety and shall make findings and recommendations regarding:

(1) accurate methods of tracking ATV ownership in the State;

(2) appropriate safety equipment;

(3) effective methods of educating consumers;

(4) appropriate locations for ATV use;

(5) training for ATV owners;

(6) public awareness of ATV safety–related topics; and

(7) any other topic related to ATV safety deemed appropriate by the Task Force.

(g) The Task Force shall report its findings and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, in an interim report, on or before December 15, 2008, and in a final report, on or before May 31, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 1 year and, at the end of May 31, 2009, 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 8, 2008.

CHAPTER 15

(Senate Bill 37)

AN ACT concerning

Criminal Procedure Article Additions

FOR the purpose of adding three new titles to the Criminal Procedure Article of the Annotated Code of Maryland, to be designated and known as "Title 14. Office of the State Prosecutor", "Title 15. Office of the State's Attorney", and "Title 16. Office of the Public Defender"; revising, restating, and recodifying certain laws applicable to the Office of the State Prosecutor, including laws concerning the establishment of the Office, the eligibility of individuals to be nominated and appointed to be the State Prosecutor, the establishment and membership of the State Prosecutor Selection and Disabilities Commission, the filling of vacancies in the Office, the reprimand or removal of the State Prosecutor, the general powers and duties of the State Prosecutor, investigations, reports, and prosecutions of the Office, the budget and staff of the Office, and meetings with the Attorney General and State's Attorneys; revising, restating, and recodifying certain laws applicable to the Office of the State's Attorney, including laws concerning the duties of the State's Attorney, the subpoena power in a criminal investigation, and the appointment of an interim State's Attorney, the establishment of the State's Attorneys' Coordination Council, the establishment of the Office of the State's Attorneys' Coordinator, the duties of the Coordinator, and the salary, expenses, staffing, and other matters regarding the State's Attorneys for Allegany County, Anne Arundel County, Baltimore County, Calvert County, Caroline County, Carroll County, Cecil County, Charles County, Dorchester County, Frederick County, Garrett County, Harford County, Howard County, Kent County, Montgomery County, Prince George's County, Queen Anne's County, St. Mary's County, Somerset County, Talbot County, Washington County, Wicomico County, and Worcester County; revising, restating, and recodifying certain laws applicable to the Office of the Public Defender, including laws concerning the establishment of the Office of the Public Defender, Office personnel, representation of indigent individuals, termination of representation, representation in federal court, duties and powers of the Public Defender, panel attorneys, privileged communications, eligibility for services, reimbursement for services, liens, the Board of Trustees of the Office of the Public Defender, regional advisory boards, reports of the

Public Defender, and appropriations; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and permits; and generally relating to laws of the State relating to the Office of the State Prosecutor, the Office of the State's Attorney, and the Office of the Public Defender.

BY repealing
Article 10 – Legal Officials
In its entirety
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing
Article 27A – Public Defender
In its entirety
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing
Article – State Government
Section 9–1201 through 9–1213, inclusive, and the subtitle "Subtitle 12. Office of the State Prosecutor"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Criminal Procedure
Section 14–101 through 14–114, inclusive, and the new title "Title 14. Office of the State Prosecutor"; 15–101 through 15–424, inclusive, and the various subtitles to be under the new title "Title 15. Office of the State's Attorney"; and 16–101 through 16–403, inclusive, and the various subtitles to be under the new title "Title 16. Office of the Public Defender"
Annotated Code of Maryland
(2001 Volume and 2007 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 10
In its entirety

Article 27A

In its entirety

Article – State Government
Section 9–1201 through 9–1213, inclusive, and the subtitle "Subtitle 12. Office of the State Prosecutor"

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

Article – Criminal Procedure

TITLE 14. OFFICE OF THE STATE PROSECUTOR.

14–101. "COMMISSION" DEFINED.

IN THIS TITLE, "COMMISSION" MEANS THE STATE PROSECUTOR SELECTION AND DISABILITIES COMMISSION.

REVISOR'S NOTE: This section is new language added to provide a convenient reference to the "State Prosecutor Selection and Disabilities Commission".

14–102. OFFICE OF THE STATE PROSECUTOR.

(A) ESTABLISHED.

(1) THERE IS AN OFFICE OF THE STATE PROSECUTOR.

(2) THE OFFICE OF THE STATE PROSECUTOR IS AN INDEPENDENT UNIT IN THE OFFICE OF THE ATTORNEY GENERAL.

(B) ELIGIBILITY.

(1) AN INDIVIDUAL IS ELIGIBLE TO BE THE STATE PROSECUTOR ONLY IF THE INDIVIDUAL:

(I) EXECUTES AN AFFIDAVIT THAT THE INDIVIDUAL WILL NOT ACCEPT APPOINTMENT TO, OR BE A CANDIDATE FOR, A STATE OR LOCAL OFFICE DURING THE PERIOD OF SERVICE AS THE STATE PROSECUTOR AND FOR AT LEAST 3 YEARS IMMEDIATELY AFTER THE INDIVIDUAL LAST SERVES AS THE STATE PROSECUTOR; AND

(II) HAS LAWFULLY AND ACTIVELY PRACTICED LAW IN THE STATE FOR AT LEAST 5 YEARS.

(2) THE STATE PROSECUTOR SHALL RENEW THE AFFIDAVIT EVERY 2 YEARS DURING THE PERIOD OF SERVICE.

(3) A FAILURE TO RENEW THE AFFIDAVIT UNDER THIS SUBSECTION SHALL SUBJECT THE STATE PROSECUTOR TO REMOVAL FROM OFFICE UNDER THIS SECTION.

(C) NOMINATION; APPOINTMENT; TENURE.

(1) THE STATE PROSECUTOR SHALL BE:

(I) NOMINATED BY THE COMMISSION; AND

(II) APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) THE TERM OF THE STATE PROSECUTOR IS 6 YEARS.

(3) AT THE END OF A TERM, THE STATE PROSECUTOR CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(D) REMOVAL.

ONLY ON THE RECOMMENDATION OF THE COMMISSION, THE GOVERNOR MAY REMOVE THE STATE PROSECUTOR FOR:

(1) MISCONDUCT IN OFFICE;

(2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE; OR

(3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF JUSTICE.

(E) SALARY.

THE STATE PROSECUTOR IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET, BUT NOT LESS THAN THE SALARY OF A JUDGE OF A CIRCUIT COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1201.

In subsection (b)(1)(i) of this section, the former phrase "under oath" is deleted in light of the reference to "affidavit".

Also in subsection (b)(1)(i) of this section, the former reference to a State or local office ", whether appointive or elective," is deleted as redundant, because this subsection states that an individual will not accept "appointment to, or be a candidate for," a State or local office.

In subsection (b)(1)(ii) of this section, the former phrase "at the time of appointment" is deleted as surplusage.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that the Office of the State Prosecutor is an independent unit but is no longer physically housed in the Office of the Attorney General, and the Office of the State Prosecutor is not budgeted as part of the Office of the Attorney General. Thus, the reference in subsection (a)(2) of this section to the Office as being "in the Office of the Attorney General" may be obsolete.

The Committee also notes that subsection (b)(1) of this section states that the State Prosecutor must file an affidavit stating that the State Prosecutor will not accept appointment to, or be a candidate for, a State or local office during service as the State Prosecutor and for at least 3 years thereafter. Subsection (b)(2) states that the State Prosecutor must renew the affidavit every 2 years during the period of service. These provisions, however, do not state with whom the State Prosecutor should file an original or renewed affidavit.

The Committee also notes that subsection (b)(3) of this section states that a failure to renew the affidavit shall subject the State Prosecutor to removal from office under this section. The only provision in this section that covers removal is subsection (d). The relationship, however, between subsection (b) and subsection (d) is unclear. Subsection (d) requires that removal be first recommended by the Commission and states three grounds for removal, none of which specifically includes failure to renew the affidavit.

Defined term: "Commission" § 14–101

14–103. STATE PROSECUTOR SELECTION AND DISABILITIES COMMISSION.

(A) ESTABLISHED.

THERE IS A STATE PROSECUTOR SELECTION AND DISABILITIES COMMISSION.

(B) MEMBERSHIP.

THE COMMISSION CONSISTS OF:

(1) THE ATTORNEY GENERAL; AND

(2) SIX INDIVIDUALS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(I) TWO INDIVIDUALS SHALL BE APPOINTED FROM A LIST OF TWO OR MORE NOMINEES SUBMITTED BY THE PRESIDENT OF THE SENATE:

1. ONLY ONE OF THE INDIVIDUALS APPOINTED SHALL BE A LAWYER; AND

2. NONE OF THE NOMINEES MAY BE A MEMBER OF THE GENERAL ASSEMBLY OR A FULL–TIME STATE EMPLOYEE;

(II) TWO INDIVIDUALS SHALL BE APPOINTED FROM A LIST OF TWO OR MORE NOMINEES SUBMITTED BY THE SPEAKER OF THE HOUSE OF DELEGATES:

1. ONLY ONE OF THE INDIVIDUALS APPOINTED SHALL BE A LAWYER; AND

2. NONE OF THE NOMINEES MAY BE A MEMBER OF THE GENERAL ASSEMBLY OR A FULL–TIME STATE EMPLOYEE;

(III) ONE INDIVIDUAL WHO:

1. SHALL BE APPOINTED FROM A LIST OF ONE OR MORE NOMINEES SUBMITTED BY THE BOARD OF GOVERNORS OF THE MARYLAND STATE BAR ASSOCIATION; AND

2. IS A LAWYER ADMITTED TO PRACTICE LAW IN THE STATE; AND

(IV) ONE INDIVIDUAL WHO:

1. SHALL BE APPOINTED FROM A LIST OF ONE OR MORE NOMINEES SUBMITTED BY THE GOVERNING BOARD OF THE MARYLAND STATE'S ATTORNEYS ASSOCIATION; AND

2. IS A STATE'S ATTORNEY AT THE TIME OF APPOINTMENT AND THROUGHOUT THE INDIVIDUAL'S TERM ON THE COMMISSION.

(C) APPOINTMENT.

(1) THE GOVERNOR SHALL APPOINT THE MEMBERS OF THE COMMISSION FROM THE NOMINEES SUBMITTED TO THE GOVERNOR UNDER THIS SECTION.

(2) THE GOVERNOR MAY REJECT AN INDIVIDUAL AS A NOMINEE ONLY FOR CAUSE.

(3) IF THE GOVERNOR REJECTS AN INDIVIDUAL AS A NOMINEE, THE GOVERNOR SHALL REQUEST THE APPROPRIATE NOMINATING AUTHORITY TO SUBMIT ANOTHER NOMINEE.

(D) TENURE.

(1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS IN EFFECT FOR MEMBERS ON OCTOBER 1, 2008.

(3) AN APPOINTED MEMBER SERVES UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) AN APPOINTED MEMBER IS ELIGIBLE FOR REAPPOINTMENT.

(E) CHAIR.

FROM AMONG THE MEMBERS, THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COMMISSION FOR THE PERIOD THAT THE GOVERNOR DETERMINES.

(F) VACANCIES.

A VACANCY THAT OCCURS ON THE COMMISSION SHALL BE FILLED BY THE GOVERNOR IN THE SAME MANNER AS PROVIDED FOR APPOINTMENTS IN THIS SECTION.

(G) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE COMMISSION; BUT

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

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1211.

In subsection (b)(1) of this section, the former reference to the Attorney General ", ex officio, but with power to vote" is deleted as unnecessary and possibly misleading because serving "ex officio" does not place a limit on voting rights, despite a common misperception that it indicates a nonvoting status.

In subsection (b)(2)(iv) of this section, the former reference to the Maryland State's Attorneys Association ", Incorporated, or its successor" is deleted as surplusage.

In subsection (d) of this section, the references to "appointed" members are added to clarify that subsection (d) does not apply to the Attorney General, who serves ex officio.

In subsection (d)(2) of this section, the reference to terms being "staggered as required by the terms in effect for members on October 1, 2008" is substituted for the former obsolete reference to the initial terms of the initial appointees. This substitution is not intended to alter the term of any member of the Commission. *See* § 5 of Ch. 15, Acts of 2008. The terms of the members serving on October 1, 2008, end as follows: (1) two members on December 31, 2009; (2) two members on December 31, 2011; and (3) two members on December 31, 2013.

In subsection (e) of this section, the reference to "chair" is substituted for the former reference to "chairman" because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (g)(2) of this section, the reference to "Standard State Travel Regulations" is standard language added to reflect that, under SF § 10–203, the Board of Public Works has adopted regulations for reimbursement of expenses. *See* COMAR 23.02.01.01 through .12.

Defined term: "Commission" § 14–101

14–104. FILLING VACANCIES IN OFFICE OF STATE PROSECUTOR.

(A) RECOMMENDATIONS.

ON NOTIFICATION BY THE GOVERNOR THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR IN THE POSITION OF STATE PROSECUTOR, THE COMMISSION SHALL:

(1) SEEK AND REVIEW APPLICATIONS OF PROPOSED NOMINEES;

(2) NOTIFY AND REQUEST RECOMMENDATIONS FROM THE MARYLAND STATE BAR ASSOCIATION; AND

(3) SEEK RECOMMENDATIONS FROM MEMBERS OF THE COMMISSION AND INTERESTED CITIZENS AND GROUPS.

(B) NOMINATIONS.

THE COMMISSION SHALL:

(1) INTERVIEW AND EVALUATE EACH ELIGIBLE APPLICANT; AND

(2) NOMINATE TO THE GOVERNOR, ON A VOTE TAKEN BY SECRET BALLOT, ONE OR MORE INDIVIDUALS WHOM A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMISSION FINDS TO BE LEGALLY AND PROFESSIONALLY QUALIFIED.

(C) REPORT TO GOVERNOR.

THE COMMISSION SHALL REPORT, IN WRITING, TO THE GOVERNOR THE NAME OF THE INDIVIDUAL OR INDIVIDUALS IT NOMINATES WITHIN 70 DAYS AFTER NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR.

(D) REJECTION OF NOMINEE.

(1) (I) THE GOVERNOR MAY REJECT A NOMINEE FOR CAUSE.

(II) IF A NOMINEE IS REJECTED FOR CAUSE, THE COMMISSION SHALL SUBMIT ANOTHER NOMINEE.

(2) IF THE GOVERNOR REJECTS A NOMINEE:

(I) THE GOVERNOR SHALL SEND TO THE COMMISSION A WRITTEN STATEMENT THAT CONTAINS THE REASONS FOR THE REJECTION; AND

(II) A COPY OF THE STATEMENT OF REJECTION SHALL BE FURNISHED TO THE NOMINEE.

(3) THE STATEMENT SHALL BE CONFIDENTIAL AND PRIVILEGED, UNLESS THE PRIVILEGE IS DEEMED WAIVED BY THE COMMISSION BY THE ACTS OF THE NOMINEE IN PRESENTING TO THE PUBLIC THE REASON FOR THE REJECTION.

(4) THE COMMISSION MAY MAKE THE STATEMENT PUBLIC.

(E) TIME OF APPOINTMENT OR REJECTION.

THE GOVERNOR SHALL EXERCISE THE POWER OF APPOINTMENT OR REJECTION WITHIN 30 DAYS AFTER RECEIPT OF THE COMMISSION'S REPORT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1212.

In the introductory language of subsection (a) of this section, the reference to the "position of" State Prosecutor is substituted for the former reference to the "Office of the" State Prosecutor for clarity.

In subsection (b)(2) of this section, the former reference to the "entire" authorized membership is deleted as surplusage.

In subsection (d)(3) of this section, the former reference to "secret" is deleted as implicit in the references to "confidential" and "privileged".

Also in subsection (d)(3) of this section, the former reference to the "nominating" Commission is deleted as surplusage.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that subsection (d)(3) of this section appears to be inconsistent with subsection (d)(4). Subsection (d)(3) states that a rejection statement "shall be confidential and privileged, unless the privilege is deemed waived by the Commission by the acts of the nominee in presenting to the public the reason for rejection". Subsection (d)(4), however, states without qualification that the Commission "may make the statement public".

Defined term: "Commission" § 14–101

14–105. REPRIMAND OR REMOVAL.

(A) AUTHORITY OF COMMISSION.

THE COMMISSION MAY REPRIMAND OR RECOMMEND TO THE GOVERNOR THE REMOVAL OF THE STATE PROSECUTOR IF, AFTER A HEARING, THE COMMISSION FINDS THAT THE STATE PROSECUTOR IS GUILTY OF:

(1) MISCONDUCT IN OFFICE;

(2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE; OR

(3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF JUSTICE.

(B) CONFIDENTIAL AND PRIVILEGED PROCEEDINGS AND EVIDENCE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PROCEEDINGS, TESTIMONY, AND OTHER EVIDENCE BEFORE THE COMMISSION ARE CONFIDENTIAL AND PRIVILEGED.

(2) ON TAKING FINAL ACTION, THE COMMISSION MAY MAKE ITS ORDER AND THE PROCEEDINGS, TESTIMONY, AND OTHER EVIDENCE PUBLIC.

(C) INVESTIGATIONS; HEARINGS.

(1) ON COMPLAINT OR ON ITS OWN INITIATIVE, THE COMMISSION MAY INVESTIGATE ALLEGATIONS AGAINST THE STATE PROSECUTOR THAT MAY WARRANT REMOVAL OR REPRIMAND.

(2) THE COMMISSION MAY:

(I) CONDUCT HEARINGS;

(II) ADMINISTER OATHS AND AFFIRMATIONS;

(III) ISSUE PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF EVIDENCE; AND

(IV) REQUIRE A PERSON TO TESTIFY AND PRODUCE EVIDENCE BY GRANTING THE PERSON IMMUNITY FROM PROSECUTION, PENALTY, OR FORFEITURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1213.

In subsection (c)(1) of this section, the reference to the Commission's own "initiative" is substituted for the former reference to the Commission's own "motion" to conform to the terminology used in § 14–107(a)(3) of this title.

Also in subsection (c)(1) of this section, the reference to a "reprimand" is substituted for the former reference to "discipline" to conform to the terminology used in this section.

Also in subsection (c)(1) of this section, the former phrase "if true" is deleted as surplusage.

Defined terms: "Commission" § 14–101

"Person" § 1–101

14–106. GENERAL POWERS AND DUTIES OF STATE PROSECUTOR.

THE STATE PROSECUTOR HAS THE POWERS AND DUTIES ESTABLISHED UNDER §§ 14–107 THROUGH 14–111 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1202.

The former reference to "responsibilities" is deleted as unnecessary in light of the reference to the "duties" of the State Prosecutor.

14–107. INVESTIGATIONS.

(A) IN GENERAL.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE STATE PROSECUTOR MAY INVESTIGATE:

(I) A CRIMINAL OFFENSE UNDER THE STATE ELECTION LAWS;

(II) A CRIMINAL OFFENSE UNDER THE STATE PUBLIC ETHICS LAW;

(III) A VIOLATION OF THE STATE BRIBERY LAWS IN WHICH AN OFFICIAL OR EMPLOYEE OF THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR A BICOUNTY OR MULTICOUNTY UNIT OF THE STATE WAS THE OFFEROR, OFFEREE, OR INTENDED OFFEROR OR OFFEREE OF A BRIBE;

(IV) AN OFFENSE CONSTITUTING CRIMINAL MALFEASANCE, MISFEASANCE, OR NONFEASANCE IN OFFICE COMMITTED BY AN OFFICER OR EMPLOYEE OF THE STATE, OF A POLITICAL SUBDIVISION OF THE STATE, OR OF A BICOUNTY OR MULTICOUNTY UNIT OF THE STATE; AND

(V) A VIOLATION OF THE STATE EXTORTION, PERJURY, OR OBSTRUCTION OF JUSTICE LAWS RELATED TO AN ACTIVITY DESCRIBED IN THIS PARAGRAPH.

(2) THE STATE PROSECUTOR MAY NOT INVESTIGATE AN OFFENSE ALLEGED TO HAVE BEEN COMMITTED BY THE STATE PROSECUTOR OR A MEMBER OF THE STATE PROSECUTOR'S STAFF.

(3) THE STATE PROSECUTOR MAY INVESTIGATE AN ALLEGED OFFENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION ON THE STATE PROSECUTOR'S OWN INITIATIVE OR ON REQUEST OF:

(I) THE GOVERNOR;

(II) THE ATTORNEY GENERAL;

(III) THE GENERAL ASSEMBLY;

(IV) THE STATE ETHICS COMMISSION; OR

(V) A STATE'S ATTORNEY.

(4) AN INDIVIDUAL WHO IS ADVISED BY THE STATE PROSECUTOR THAT THE INDIVIDUAL IS UNDER INVESTIGATION UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION MAY RELEASE THIS INFORMATION TO THE PUBLIC, AS WELL AS ANY RESULTS OF THE INVESTIGATION THAT PERTAIN TO THE INDIVIDUAL.

(B) BY REQUEST ONLY.

ON REQUEST OF THE GOVERNOR, THE ATTORNEY GENERAL, THE GENERAL ASSEMBLY, OR A STATE'S ATTORNEY, THE STATE PROSECUTOR MAY INVESTIGATE CRIMINAL ACTIVITY THAT IS COMMITTED:

(1) PARTLY IN THE STATE AND PARTLY IN ANOTHER JURISDICTION; OR

(2) IN MORE THAN ONE POLITICAL SUBDIVISION OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1203.

In subsection (a)(1)(iii) and (iv) of this section, the references to "unit" of the State are substituted for the former references to "agency" to conform to the terminology used in other revised articles of the Code.

In subsection (a)(4) of this section, the references to an "individual" are substituted for the former references to a "person" to reflect that the provision relating to an "offense constituting criminal malfeasance, misfeasance, or nonfeasance in office committed by an officer or employee" would apply only to human beings and not to the other entities listed in the definition of "person".

In subsection (b) of this section, the former reference to "conducted" is deleted as implicit in the term "committed".

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that subsection (a)(1)(iv) of this section refers to "criminal malfeasance, misfeasance, or nonfeasance in office committed by an … employee of the State". An employee, however, is not an officer and thus cannot commit any of those crimes "in office".

14–108. REPORTS.

(A) REPORT OF ALLEGED VIOLATIONS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE STATE PROSECUTOR FINDS THAT AN ALLEGED VIOLATION OF THE CRIMINAL LAW SET FORTH IN § 14–107 OF THIS TITLE HAS OCCURRED, THE STATE PROSECUTOR SHALL MAKE A CONFIDENTIAL REPORT OF THE FINDINGS AND ANY RECOMMENDATIONS FOR PROSECUTION TO THE ATTORNEY GENERAL AND THE STATE'S ATTORNEY FOR THE COUNTY IN WHICH JURISDICTION EXISTS TO PROSECUTE THE MATTER.

(2) A REPORT OF THE FINDINGS AND RECOMMENDATIONS REGARDING ALLEGATIONS OF OFFENSES COMMITTED BY A STATE'S ATTORNEY NEED NOT BE MADE TO THAT STATE'S ATTORNEY.

(B) REPORT OF NO VIOLATION OR NO RECOMMENDATION FOR PROSECUTION.

(1) IF THE STATE PROSECUTOR FINDS THAT THERE HAS NOT BEEN A VIOLATION OF CRIMINAL LAW OR THE STATE PROSECUTOR DOES NOT RECOMMEND PROSECUTION, THE STATE PROSECUTOR SHALL REPORT THE FINDINGS TO THE PERSON WHO REQUESTED THE INVESTIGATION.

(2) IF THE GENERAL ASSEMBLY REQUESTED THE INVESTIGATION, THE REPORT SHALL BE MADE TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES.

(3) ON REQUEST OF THE PERSON WHO WAS THE SUBJECT OF THE INVESTIGATION, THE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC AS SOON AS POSSIBLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1204.

In subsection (a)(2) of this section, the reference to a report "of the findings" and allegations is added for clarity.

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

14–109. PROSECUTIONS.

(A) IN GENERAL.

(1) THE STATE PROSECUTOR MAY PROSECUTE A CRIMINAL OFFENSE SET FORTH IN THE STATE PROSECUTOR'S REPORT OF THE FINDINGS AND RECOMMENDATIONS IF, WITHIN 45 DAYS AFTER RECEIPT OF THE REPORT, THE STATE'S ATTORNEY FAILS TO FILE CHARGES AND BEGIN PROSECUTION IN ACCORDANCE WITH THE RECOMMENDATIONS.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE STATE PROSECUTOR MAY IMMEDIATELY PROSECUTE A CRIMINAL OFFENSE THAT IS SET FORTH IN THE STATE PROSECUTOR'S REPORT AND THAT IS ALLEGED TO HAVE BEEN COMMITTED BY THE STATE'S ATTORNEY.

(B) APPEALS AND POSTCONVICTION PROCEEDINGS.

(1) THE STATE PROSECUTOR SHALL REPRESENT THE STATE IN EACH APPEAL AND POSTCONVICTION PROCEEDING THAT ARISES FROM A PROSECUTION THAT THE STATE PROSECUTOR CONDUCTS.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE ATTORNEY GENERAL MAY REPRESENT THE STATE OR ASSIST THE STATE PROSECUTOR:

(I) ON THE REQUEST OF THE STATE PROSECUTOR; OR

(II) AS REQUIRED BY LAW IN AN APPEAL OR COLLATERAL PROCEEDING DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1205.

In subsection (a) of this section, the former references to the "investigative" report are deleted to conform to the terminology used throughout this title.

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

14–110. POWERS AND DUTIES FOR INVESTIGATIONS AND PROSECUTIONS.

THE STATE PROSECUTOR HAS ALL THE POWERS AND DUTIES OF A STATE'S ATTORNEY, INCLUDING THE USE OF A GRAND JURY IN ANY COUNTY, WHEN THE STATE PROSECUTOR:

(1) INVESTIGATES A CASE UNDER § 14–107 OF THIS TITLE; OR

(2) PROSECUTES A CASE UNDER § 14–109 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1206.

Defined term: "County" § 1–101

14–111. VENUE.

THE TRIAL OF A CASE THAT THE STATE PROSECUTOR PROSECUTES IN ACCORDANCE WITH § 14–109 OF THIS TITLE SHALL TAKE PLACE BEFORE THE COURT HAVING JURISDICTION IN THE COUNTY IN WHICH THE OFFENSE WAS ENTIRELY OR PARTLY COMMITTED, SUBJECT TO REMOVAL IN ACCORDANCE WITH THE MARYLAND RULES.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1207.

The former reference to jurisdiction in the county "or Baltimore City, as the case may be" is deleted as surplusage.

Defined term: "County" § 1–101

14–112. BUDGET AND STAFF.

(A) BUDGET.

THE BUDGET OF THE STATE PROSECUTOR AND THE OFFICE OF THE STATE PROSECUTOR SHALL BE A PART OF THE BUDGET OF THE OFFICE OF THE ATTORNEY GENERAL.

(B) STAFF.

THE STATE PROSECUTOR MAY APPOINT AND EMPLOY THE PROFESSIONAL, INVESTIGATIVE, AND CLERICAL STAFF PROVIDED IN THE STATE BUDGET.

(C) PRIVATE PRACTICE OF LAW PROHIBITED.

THE STATE PROSECUTOR AND THE STAFF ATTORNEYS APPOINTED BY THE STATE PROSECUTOR SHALL DEVOTE FULL TIME TO THEIR OFFICIAL DUTIES AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(D) USE OF SERVICES AND PERSONNEL OF OTHER AGENCIES.

(1) TO THE EXTENT PRACTICABLE, THE STATE PROSECUTOR SHALL USE THE SERVICES AND PERSONNEL OF:

(I) THE OFFICE OF THE ATTORNEY GENERAL;

(II) THE DEPARTMENT OF STATE POLICE; AND

(III) OTHER STATE AND LAW ENFORCEMENT UNITS.

(2) THE UNITS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL COOPERATE, TO THE EXTENT FEASIBLE, WITH THE STATE PROSECUTOR AND THE STATE PROSECUTOR'S STAFF.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1208.

In subsection (d) of this section, the references to "units" of the State are substituted for the former references to "agencies" to conform to the terminology used in other revised articles of the Code.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that the statement in subsection (a) of this section, declaring that "the budget of the State Prosecutor and the Office of the Attorney General shall be a part of the budget of the Office of the Attorney General" may be obsolete. The Office of the State Prosecutor is no longer budgeted as part of the Office of the Attorney General.

14–113. MEETINGS WITH ATTORNEY GENERAL AND STATE'S ATTORNEYS.

THE STATE PROSECUTOR SHALL MEET AND CONFER REGULARLY WITH THE ATTORNEY GENERAL AND THE STATE'S ATTORNEYS.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1209.

The former reference to "various" State's Attorneys is deleted as surplusage.

14–114. ANNUAL REPORT.

THE STATE PROSECUTOR SHALL SUBMIT AN ANNUAL REPORT ON ACTIVITIES OF THE OFFICE OF THE STATE PROSECUTOR THAT ARE NOT CONFIDENTIAL TO:

(1) THE GOVERNOR;

(2) THE ATTORNEY GENERAL; AND

(3) SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1210.

TITLE 15. OFFICE OF THE STATE'S ATTORNEY.

SUBTITLE 1. DEFINITIONS; GENERAL DUTIES AND POWERS.

15–101. 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) COORDINATOR.

"COORDINATOR" MEANS THE STATE'S ATTORNEYS' COORDINATOR.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title, "State's Attorneys' Coordinator".

(C) COUNCIL.

"COUNCIL" MEANS THE STATE'S ATTORNEYS' COORDINATION COUNCIL.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title, "State's Attorneys' Coordination Council".

(D) STATE'S ATTORNEY.

"STATE'S ATTORNEY" MEANS THE INDIVIDUAL HOLDING THAT OFFICE UNDER ARTICLE V, § 7 OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 10, § 39A(d).

The definition of the term "State's Attorney" in former Art. 10, § 39A(d) was applicable only to former Art. 10, § 39A, which is revised in § 15–108 of this subtitle. However, the term "State's Attorney" was also used in other provisions of former Art. 10 that are revised in this title. In this subsection, the former phrase "[f]or the purpose of this section" is deleted and the definition of "State's Attorney" is made applicable throughout this title. No substantive change is intended.

Also in this subsection, the reference to an "individual" is substituted for the former reference to a "person" because only a human being and not the other entities including in the defined term "person" can hold the office of State's Attorney.

15–102. DUTY TO REPRESENT STATE.

SUBJECT TO TITLE 14 OF THIS ARTICLE, A STATE'S ATTORNEY SHALL, IN THE COUNTY SERVED BY THE STATE'S ATTORNEY, PROSECUTE AND DEFEND ON THE PART OF THE STATE ALL CASES IN WHICH THE STATE MAY BE INTERESTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 34.

The former references to "the City of Baltimore" and "city" are deleted in light of the defined term "county" in § 1–101 of this article.

Defined terms: "County" § 1–101
"State's Attorney" § 15–101

15–103. DUTY TO ASSIST COMPTROLLER AND STATE TREASURER.

(A) IN GENERAL.

A STATE'S ATTORNEY:

(1) WITH RESPECT TO THE COUNTY SERVED BY THE STATE'S ATTORNEY, SHALL AID THE COMPTROLLER AND STATE TREASURER IN THE ADJUSTMENT OF THE ACCOUNTS THAT THE CLERK OF THE CIRCUIT COURT, THE REGISTER OF WILLS, AND THE SHERIFF HAVE WITH THE STATE; AND

(2) WHEN REQUIRED, SHALL ADVISE THE COMPTROLLER AND STATE TREASURER OF THE ALLOWANCES THAT THE COMPTROLLER OR STATE TREASURER SHOULD MAKE THE ACCOUNTANT FOR INSOLVENCY OR NONRESIDENCE.

(B) COMPENSATION.

FOR THE SERVICES DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND PROFESSIONAL SERVICES IN THE COLLECTION OF STATE REVENUE, THE COMPTROLLER MAY ALLOW A STATE'S ATTORNEY 5% OF ALL MONEY SUED FOR AND PAID INTO THE STATE TREASURY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 38.

In subsection (a) of this section, the former references to a State's Attorney in "the several counties and the City of Baltimore" and "the said city" are deleted in light of the defined term "county" in § 1–101 of this article.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that the language of this section appears to be obsolete, as it predates the development of the modern State's Attorney's Office in Maryland. State's Attorneys no longer provide services such as adjusting accounts of county office holders for the Comptroller or Treasurer or advising those officials on insolvency or nonresidence. Neither do they provide services in the collection of revenue. Instead, a State's Attorney primarily deals with the prosecution of crime.

Defined terms: "County" § 1–101
"State's Attorney" § 15–101

15–104. DUTY TO POST BOND.

(A) AMOUNT OF BOND.

EACH STATE'S ATTORNEY SHALL ANNUALLY PROVIDE A CORPORATE SURETY BOND PAYABLE TO THE STATE IN THE AMOUNT OF $5,000.

(B) CONDITIONS OF BOND.

THE BOND SHALL BE CONDITIONED ON THE STATE'S ATTORNEY FAITHFULLY:

(1) PERFORMING THE DUTIES OF THE OFFICE; AND

(2) ACCOUNTING FOR FUNDS AND PROPERTY RECEIVED UNDER COLOR OF THE OFFICE.

(C) REQUIREMENT OF DEPOSIT; PREMIUMS.

(1) THE BOND SHALL BE DEPOSITED WITH THE COMPTROLLER.

(2) PREMIUMS ON THE BOND SHALL BE AN EXPENSE OF THE OFFICE OF THE STATE'S ATTORNEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 35.

In subsection (a) of this section, the reference requiring a State's Attorney to "provide" a bond is substituted for the former reference requiring the State's Attorney to "give" a bond for accuracy.

Also in subsection (a) of this section, the reference to "amount" is substituted for the former reference to "penal sum" for clarity.

Also in subsection (a) of this section, the former reference to the State's Attorney "for each county and the City of Baltimore" is deleted in light of the defined term "State's Attorney".

In subsection (c)(2) of this section, the reference to "an expense" is substituted for the former reference to "part of the expense" for brevity.

Defined term: "State's Attorney" § 15–101

15–105. DUTY TO SUBMIT FACTS AND EVIDENCE OF CASES.

A STATE'S ATTORNEY SHALL PREPARE AND SUBMIT TO THE DIVISION OF PAROLE AND PROBATION AND THE DIVISION OF CORRECTION A SUMMARY OF THE FACTS AND EVIDENCE IN EACH CASE TRIED IN THE CIRCUIT COURT FOR THE COUNTY SERVED BY THE STATE'S ATTORNEY IN WHICH:

(1) THE DEFENDANT WAS SENTENCED TO IMPRISONMENT FOR 18 MONTHS OR MORE; AND

(2) THE DIVISION OF PAROLE AND PROBATION DID NOT PREPARE A PRESENTENCE INVESTIGATION REPORT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40A.

In the introductory language of this section, the reference to a "summary" of facts and evidence is substituted for the former reference to a "resume" for clarity.

Also in the introductory language of this section, the reference to the county "served by the State's Attorney" is added for clarity.

In item (2) of this section, the reference to the Division "of Parole and Probation" is added for clarity. For provisions regarding the preparation of a presentence investigation report, *see* § 6–112 of the Correctional Services Article.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that the various State's Attorneys, in practice, do not generally prepare the reports required by this section. Additionally, former Art. 10, § 40A was limited to cases "tried in the circuit court" and on its face was inapplicable to sentences of 18 months or more that result from pleas without trial in circuit court or any sentence of 18 months or more in a District Court case.

Defined terms: "County" § 1–101
"State's Attorney" § 15–101

15–106. DUTY TO RECOVER FINES, PENALTIES, AND FORFEITURES.

ON THE APPLICATION OF THE SHERIFF FOR THE COUNTY SERVED BY A STATE'S ATTORNEY, THE STATE'S ATTORNEY SHALL ORDER EXECUTION TO BE ISSUED FOR THE RECOVERY OF FINES, PENALTIES, FORFEITURES, AND COSTS IMPOSED BY A COURT OF RECORD IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 36.

The former reference to a sheriff of a "city" is deleted in light of the defined term "county" in § 1–101 of this article.

The former reference to "ex officio" is deleted as surplusage.

The reference to "and costs" is substituted for the former reference to "together with the costs accruing thereon" for brevity.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that the language of this section refers to a service that the modern State's Attorney's office no longer provides for the courts of the State.

Defined terms: "County" § 1–101
"State's Attorney" § 15–101

15–107. DUTY TO SPECIFY SERVICES AND EXPENSES RENDERED.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO ALLEGANY COUNTY, ANNE ARUNDEL COUNTY, BALTIMORE COUNTY, CALVERT COUNTY, GARRETT COUNTY, MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, WASHINGTON COUNTY, OR WORCESTER COUNTY.

(B) DUTY TO ACCOUNT FOR SERVICES AND EXPENSES TO COUNTY.

(1) A STATE'S ATTORNEY SHALL MAKE A FULL AND PARTICULAR ACCOUNTING OF SERVICES RENDERED AND EXPENSES INCURRED BY THE STATE'S ATTORNEY AND CHARGEABLE TO THE COUNTY.

(2) THE ACCOUNTING SHALL INCLUDE:

(I) THE TIME AND PLACE THAT SERVICES WERE RENDERED; AND

(II) THE EXPENSES THAT WERE INCURRED.

(3) THE ACCOUNTING MAY INCLUDE:

(I) A REASONABLE TRIAL FEE FOR EACH CASE ACTUALLY TRIED, ALLOWABLE AT THE DISCRETION OF THE COURT;

(II) AN APPEARANCE FEE PROVIDED BY LAW; AND

(III) REASONABLE COMPENSATION FOR OTHER SERVICES PERFORMED.

(4) THE STATE'S ATTORNEY SHALL SUBMIT THE ACCOUNTING TO THE JUDGES OF THE CIRCUIT COURT OF THE COUNTY SERVED BY THE STATE'S ATTORNEY WITH AN AFFIDAVIT AS TO THE CORRECTNESS OF THE ACCOUNTING AND THE FAIRNESS OF ANY CHARGES.

(5) THE JUDGES OF THE CIRCUIT COURT SHALL EXAMINE THE ACCOUNTING SUBMITTED BY THE STATE'S ATTORNEY.

(6) IF THE ACCOUNTING IS FAIR, REASONABLE, AND PROPERLY CHARGEABLE TO THE COUNTY, THE JUDGES OF THE CIRCUIT COURT SHALL CERTIFY THE ACCOUNTING.

(7) IF THE ACCOUNTING IS CERTIFIED BY A MAJORITY OF THE JUDGES OF THE CIRCUIT COURT, THE ACCOUNTING SHALL BE FILED WITH THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY SERVED BY THE STATE'S ATTORNEY.

(C) COUNTY TO LEVY AND COLLECT CERTIFIED AMOUNT.

ON THE FILING OF A CERTIFIED ACCOUNTING WITH THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS UNDER SUBSECTION (B) OF THIS SECTION, THE COUNTY COMMISSIONERS SHALL:

(1) APPROVE THE ACCOUNTING; AND

(2) LEVY AND COLLECT THE AMOUNT CHARGED BY THE STATE'S ATTORNEY IN THE SAME TIME AND MANNER THAT OTHER COUNTY TAXES ARE LEVIED AND COLLECTED.

(D) EFFECT OF SECTION.

THIS SECTION DOES NOT PROHIBIT A BOARD OF COUNTY COMMISSIONERS FROM PROVIDING THE OFFICE OF A STATE'S ATTORNEY A LARGER APPROPRIATION THAN THE AMOUNT THAT IS ALLOWED AND CERTIFIED BY THE JUDGES OF THE CIRCUIT COURT UNDER SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 39.

In subsection (b)(1) of this section, the reference to the requirement that a "State's Attorney shall make a full and particular accounting of services rendered and expenses incurred by the State's Attorney and chargeable to the county" is substituted for the former reference that "[i]t shall be the duty of the respective State's Attorneys of the counties of this State, in making up their accounts against the board of county commissioners of their respective counties, for all such services and expenses as are properly chargeable against said board of county commissioners, to state fully and particularly the services rendered" for brevity.

In subsection (b)(2) of this section, the reference to "expenses that were incurred" is substituted for the former reference to "items of expenses incurred in the proper discharge of their duties" for brevity.

In subsection (b)(5) of this section, the reference to the requirement that "[t]he judges of the circuit court shall examine the accounting" is substituted for the former reference that "it shall be the duty of said judges to examine said accounts" for clarity.

In subsection (b)(6) of this section, the phrase "judges of the circuit court shall certify the accounting" is substituted for the former phrase "said judges shall endorse on said accounts their certificate to that effect" for clarity.

In subsection (c)(1) of this section, the reference to the requirement that the county commissioners "approve the accounting" is substituted for the former reference to the requirement that the county commissioners "pass said accounts as certified to them by said judges, or a majority thereof" for brevity.

In subsection (c)(2) of this section, the reference to the requirement that the county commissioners levy and collect "the amount charged" is substituted for the former reference that the county commissioners levy and collect "for the use of the State's Attorneys of their respective counties, the amounts of money so as aforesaid certified by said judges, or a majority of them, to be properly chargeable" for brevity.

In subsection (d) of this section, the reference to a larger "appropriation" is substituted for the former reference to "sum" for clarity and accuracy.

Also in subsection (d) of this section, the reference to the "amount that is allowed and certified by the judges of the circuit court" is substituted for the former reference to the "amount of the accounts so allowed and certified by said court or judges" for clarity.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that the language of this section apparently requires the State's Attorneys, in counties that are not specifically exempted, to submit certain detailed information, including the specific "time[s] and place[s]" of services provided, as well as "expenses" to the "judges of the circuit court" prior to receiving funds. The judges then are required to conduct an examination of each charge before certifying the charges to the "clerk of the board of county commissioners". Finally, the "county commissioners" are directed to levy and collect from

the taxpayers the allowed and certified amounts. This system, which dates back to the era of "fee–based" State's Attorney offices, is no longer followed anywhere in the State.

Typically, the budget request for a State's Attorney's office is annually submitted directly to the county government without examination or certification by the circuit court in the county. Additionally, the references in this section to the "judges of the circuit court", the "clerk of the board of county commissioners", and "county commissioners" may be dated and are inapplicable to many modern county governments and the courts. For example, Dorchester, Harford, Howard, Talbot, and Wicomico counties and Baltimore City are not exempted from this section and are not governed by a board of county commissioners.

Moreover, this section may be unconstitutional, because it imposes a nonjudicial duty on the judges of the circuit court. *See Robey v. Commissioners of Prince George's County*, 92 Md. 150, 48A. 98 (1900), which held that a statute requiring the circuit courts to approve the accounts of sheriffs as a prerequisite to the county's payment of those accounts was unconstitutional.

Defined terms: "County" § 1–101
"State's Attorney" § 15–101

15–108. SUBPOENA POWER IN CRIMINAL INVESTIGATION.

(A) LIMITED PURPOSE; SERVICE.

(1) FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING CRIMINAL INVESTIGATION, A STATE'S ATTORNEY OR A DEPUTY STATE'S ATTORNEY DESIGNATED IN WRITING BY THE STATE'S ATTORNEY MAY ISSUE IN THE COUNTY SERVED BY THE STATE'S ATTORNEY A SUBPOENA TO A PERSON TO PRODUCE TELEPHONE, BUSINESS, GOVERNMENTAL, OR CORPORATE RECORDS OR DOCUMENTS.

(2) THE SUBPOENA MAY BE SERVED IN THE SAME MANNER AS ONE ISSUED BY A CIRCUIT COURT.

(B) RIGHT TO ATTORNEY.

(1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY CONTACT MADE UNDER SUBSECTION (A) OF THIS SECTION WITH A STATE'S ATTORNEY OR AN AGENT OF THE STATE'S ATTORNEY.

(2) THE STATE'S ATTORNEY SHALL ADVISE A PERSON OF THE RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.

(C) REPORTING FAILURE TO OBEY SUBPOENA; RIGHT TO HEARING.

(1) (I) THE STATE'S ATTORNEY IMMEDIATELY MAY REPORT THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA UNDER SUBSECTION (A) OF THIS SECTION TO THE CIRCUIT COURT OF THE COUNTY SERVED BY THE STATE'S ATTORNEY.

(II) THE STATE'S ATTORNEY SHALL PROVIDE A COPY OF THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.

(2) AFTER CONDUCTING A HEARING AT WHICH THE PERSON WHO ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA ISSUED UNDER SUBSECTION (A) OF THIS SECTION HAS AN OPPORTUNITY TO BE HEARD AND REPRESENTED BY COUNSEL, THE COURT MAY GRANT APPROPRIATE RELIEF.

(D) EFFECT OF SECTION.

THIS SECTION DOES NOT ALLOW THE CONTRAVENTION, DENIAL, OR ABROGATION OF A PRIVILEGE OR RIGHT RECOGNIZED BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 39A(a), (b), (c), (e), and (f).

In subsection (a)(1) of this section, the former reference to the limited purpose "of obtaining documents" is deleted as surplusage.

In subsection (c)(1) of this section, the former reference to "the disobedience" is deleted as unnecessary.

Also in subsection (c)(1) of this section, the reference to the circuit court of the county "served by the State's Attorney" is substituted for the former reference to the circuit court of the county "in which the State's Attorney serves under § 34 of this article" for brevity, clarity, and consistency within this title.

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

"State's Attorney" § 15–101

15–109. INTERIM STATE'S ATTORNEY.

(A) POWER TO APPOINT.

IF NECESSARY DUE TO AN ABSENCE, SICKNESS, RESIGNATION, OR DEATH OF A STATE'S ATTORNEY, THE CIRCUIT COURT FOR THE COUNTY MAY APPOINT A COMPETENT INDIVIDUAL TO PERFORM THE DUTIES OF THE STATE'S ATTORNEY IN CONDUCTING CRIMINAL OR CIVIL CASES ARISING OR PENDING IN THE CIRCUIT COURT UNTIL:

(1) THE STATE'S ATTORNEY IS ABLE TO ATTEND AND ACT IN PERSON; OR

(2) A NEW STATE'S ATTORNEY IS APPOINTED AND QUALIFIED.

(B) COMPENSATION.

AN INDIVIDUAL APPOINTED UNDER SUBSECTION (A) OF THIS SECTION SHALL RECEIVE THE SAME COMPENSATION AS THE STATE'S ATTORNEY WHO IS REPLACED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 41.

Throughout 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 serve as an interim State's Attorney.

In subsection (a)(2) of this section, the reference to a "new" State's Attorney is added for clarity.

In subsection (b) of this section, the reference to the State's Attorney "who is replaced" is added for clarity.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section, the power to appoint an interim State's Attorney is given to "the circuit court for the county", which is substituted for the former reference to "the several courts of this State". This substitution is in accordance with Article V, § 11 of the Maryland Constitution, which states that the

power to appoint an interim State's Attorney rests with "the Judge or Judges resident in the county or, if there be no resident Judge, the Judge or Judges having jurisdiction in the Circuit Court of the county in which the vacancy occurs, or by the Supreme Bench of Baltimore City for a vacancy occurring in Baltimore City".

Defined terms: "County" § 1–101
"State's Attorney" § 15–101

SUBTITLE 2. STATE'S ATTORNEYS' COORDINATION COUNCIL.

15–201. ESTABLISHED.

THERE IS A STATE'S ATTORNEYS' COORDINATION COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 10, § 41D(a).

15–202. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE COUNCIL CONSISTS OF:

(1) THE ATTORNEY GENERAL;

(2) THE STATE'S ATTORNEY FOR ANNE ARUNDEL COUNTY;

(3) THE STATE'S ATTORNEY FOR BALTIMORE CITY;

(4) THE STATE'S ATTORNEY FOR BALTIMORE COUNTY;

(5) THE STATE'S ATTORNEY FOR MONTGOMERY COUNTY;

(6) THE STATE'S ATTORNEY FOR PRINCE GEORGE'S COUNTY;

(7) THE STATE'S ATTORNEY FOR ALLEGANY COUNTY, FREDERICK COUNTY, GARRETT COUNTY, OR WASHINGTON COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES;

(8) THE STATE'S ATTORNEY FOR CALVERT COUNTY, CHARLES COUNTY, OR ST. MARY'S COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES;

(9) THE STATE'S ATTORNEY FOR CAROLINE COUNTY, CECIL COUNTY, KENT COUNTY, QUEEN ANNE'S COUNTY, OR TALBOT COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES;

(10) THE STATE'S ATTORNEY FOR CARROLL COUNTY, HARFORD COUNTY, OR HOWARD COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES; AND

(11) THE STATE'S ATTORNEY FOR DORCHESTER COUNTY, SOMERSET COUNTY, WICOMICO COUNTY, OR WORCESTER COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES.

(B) TENURE.

(1) THIS SUBSECTION ONLY APPLIES TO MEMBERS CHOSEN IN ACCORDANCE WITH SUBSECTION (A)(7) THROUGH (11) OF THIS SECTION.

(2) THE TERM OF A MEMBER OF THE COUNCIL IS 2 YEARS.

(3) A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS CHOSEN AND QUALIFIES.

(4) A MEMBER MAY SERVE ONLY DURING THE TIME THE MEMBER HOLDS THE OFFICE THAT QUALIFIES THE MEMBER FOR MEMBERSHIP.

(5) A MEMBER IS ELIGIBLE TO SERVE MORE THAN ONE TERM.

(6) A VACANCY ON THE COUNCIL SHALL BE FILLED IN THE SAME MANNER USED TO CHOOSE THE ORIGINAL MEMBERSHIP IN SUBSECTION (A) OF THIS SECTION.

(C) MEMBERSHIP NOT OFFICE OF PROFIT.

MEMBERSHIP ON THE COUNCIL DOES NOT CONSTITUTE HOLDING AN OFFICE OF PROFIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 41D(b), (c), and the second sentence of (a).

Subsection (b)(1) of this section is new language added for clarity.

In subsection (b)(6) of this section, the reference to "subsection (a) of this section" is added for clarity.

Defined terms: "Council" § 15–101
"County" § 1–101
"State's Attorney" § 15–101

15–203. OFFICERS.

THE COUNCIL SHALL DESIGNATE FROM AMONG ITS MEMBERS A CHAIR AND VICE CHAIR WHO:

(1) SHALL SERVE FOR A TERM OF 2 YEARS; AND

(2) ARE ELIGIBLE FOR REELECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 10, § 41D(d).

The references to "chair" and "vice chair" are substituted for the former references to "chairman" and "vice chairman", respectively, because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

Defined term: "Council" § 15–101

15–204. QUORUM; MEETINGS; STAFF.

(A) QUORUM.

A MAJORITY OF THE MEMBERS OF THE COUNCIL IS A QUORUM.

(B) MEETINGS.

(1) THE COUNCIL SHALL MEET AT LEAST FOUR TIMES EACH YEAR.

(2) THE COUNCIL SHALL HOLD SPECIAL MEETINGS WHEN CALLED BY:

(I) THE CHAIR, ON THE CHAIR'S OWN INITIATIVE OR ON THE WRITTEN REQUEST OF THREE COUNCIL MEMBERS; OR

(II) THE VICE CHAIR, IN THE ABSENCE OF THE CHAIR.

(3) THE COUNCIL SHALL ESTABLISH PROCEDURES AND REQUIREMENTS WITH RESPECT TO MEETINGS, DELIBERATIONS, AND THE ADMINISTRATION OF THE FUNCTIONS OF THE COUNCIL.

(C) COORDINATOR SECRETARY TO COUNCIL.

THE COORDINATOR SHALL SERVE AS THE SECRETARY TO THE COUNCIL AND PERFORM THE DUTIES AND RESPONSIBILITIES THE COUNCIL DIRECTS IN ORDER TO CARRY OUT THE FUNCTIONS OF THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 41D(e) and the second through fourth sentences of (d).

In subsection (b)(2) of this section, the references to "chair" and "vice chair" are substituted for the former references to "chairman" and "vice chairman", respectively, because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (b)(2)(i) of this section, the phrase "on the chair's own initiative" is added for clarity.

In subsection (b)(3) of this section, the former reference to "its own" procedures and requirements is deleted as surplusage.

Defined terms: "Coordinator" § 15–101
"Council" § 15–101

15–205. REGULATIONS.

AFTER CONSULTATION WITH THE STATE BOARD OF VICTIM SERVICES, THE COUNCIL SHALL ADOPT REGULATIONS FOR THE ADMINISTRATION OF THE VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM ESTABLISHED UNDER § 11–902 OF THIS ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 10, § 41D(f).

The only changes are in style.

Defined term: "Council" § 15–101

SUBTITLE 3. STATE'S ATTORNEYS' COORDINATOR.

15–301. OFFICE OF STATE'S ATTORNEYS' COORDINATOR.

(A) ESTABLISHED.

(1) THERE IS AN OFFICE OF STATE'S ATTORNEYS' COORDINATOR.

(2) THE COORDINATOR SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE COUNCIL.

(B) ELIGIBILITY.

AN INDIVIDUAL IS ELIGIBLE TO BE THE COORDINATOR IF, AT THE TIME OF APPOINTMENT, THE INDIVIDUAL IS ADMITTED TO PRACTICE LAW IN THE STATE.

(C) SALARY.

THE COORDINATOR SHALL RECEIVE THE SALARY PROVIDED IN THE STATE BUDGET.

(D) RESTRICTIONS.

THE COORDINATOR SHALL DEVOTE FULL TIME TO THE COORDINATOR'S OFFICIAL DUTIES AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(E) STAFF.

THE COORDINATOR MAY APPOINT AND EMPLOY THE PROFESSIONAL AND CLERICAL STAFF APPROVED BY THE COUNCIL AND AS PROVIDED IN THE STATE BUDGET.

(F) SUBMISSION OF BUDGET.

THE COUNCIL SHALL PREPARE AND SUBMIT TO THE GOVERNOR A BUDGET FOR THE OFFICE EACH FISCAL YEAR.

(G) COOPERATION FROM STATE AND LOCAL UNITS.

EACH UNIT OF STATE AND LOCAL GOVERNMENT SHALL COOPERATE TO THE EXTENT PRACTICABLE WITH THE COORDINATOR AND THE STAFF OF THE COORDINATOR IN THE DISCHARGE OF THE COORDINATOR'S DUTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, §§ 41A and 41C.

In subsection (b) of this section, the references to an "individual" are substituted for the former references to "person" because only a human being and not the other entities included in the defined term "person" can serve as the Coordinator.

In subsection (f) of this section, the phrase "each fiscal year" is substituted for the former phrase "beginning with the fiscal year 1979" for brevity.

Also in subsection (f) of this section, the former reference to a "consolidated" budget is deleted as unnecessary.

Defined terms: "Coordinator" § 15–101
"Council" § 15–101

15–302. DUTIES OF COORDINATOR.

THE COORDINATOR SHALL:

(1) ESTABLISH AND IMPLEMENT STANDARD AND SPECIALIZED TRAINING PROGRAMS FOR AND PROVIDE MATERIALS TO STATE'S ATTORNEYS AND PROFESSIONAL STAFFS OF STATE'S ATTORNEYS;

(2) PROVIDE AND COORDINATE CONTINUING LEGAL EDUCATION PROGRAMS AND SERVICES FOR STATE'S ATTORNEYS AND PROFESSIONAL STAFFS OF STATE'S ATTORNEYS, INCLUDING:

(I) LEGAL RESEARCH;

(II) TECHNICAL ASSISTANCE;

(III) TECHNICAL AND PROFESSIONAL PUBLICATIONS; AND

(IV) THE COMPILING AND DISSEMINATING OF INFORMATION CONCERNING AND THE ADVISING OF STATE'S ATTORNEYS ABOUT DEVELOPMENTS IN THE CRIMINAL LAW AND THE ADMINISTRATION OF CRIMINAL JUSTICE RELATING TO THE DUTIES OF THE OFFICE OF STATE'S ATTORNEY;

(3) WITH THE APPROVAL OF THE COUNCIL, ESTABLISH AND IMPLEMENT UNIFORM REPORTING PROCEDURES FOR STATE'S ATTORNEYS AND PROFESSIONAL STAFFS OF STATE'S ATTORNEYS TO MAINTAIN AND PROVIDE STATISTICAL DATA AND INFORMATION RELATING TO PROSECUTORIAL FUNCTIONS AND STANDARDS OF THE OFFICE OF STATE'S ATTORNEY;

(4) WITH THE APPROVAL OF THE COUNCIL, ACCEPT AND EXPEND FUNDS, GRANTS, AND GIFTS AND ACCEPT SERVICES FROM PUBLIC OR PRIVATE SOURCES;

(5) WITH THE APPROVAL OF THE COUNCIL, ENTER INTO AGREEMENTS AND CONTRACTS WITH PUBLIC OR PRIVATE AGENCIES OR EDUCATIONAL INSTITUTIONS;

(6) PROVIDE SERVICES AND FUNCTIONS AS THE COUNCIL DIRECTS TO CARRY OUT THE DUTIES OF THE OFFICE OF COORDINATOR;

(7) ADMINISTER THE VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM ESTABLISHED UNDER § 11–902 OF THIS ARTICLE, INCLUDING CONSIDERATION OF AND APPROVING THE RELEASE OF MONEYS FROM THE PROGRAM;

(8) CONSULT WITH THE STATE BOARD OF VICTIM SERVICES ON THE ADMINISTRATION OF THE VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM; AND

(9) MEET AND CONFER REGULARLY WITH THE ATTORNEY GENERAL, THE STATE'S ATTORNEYS, AND THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 41B.

In item (2)(iv) of this section, the reference to "developments" is substituted for the former reference to "current developments and changes" for brevity.

Also in item (2)(iv) of this section, the former reference to "responsibilities" is deleted in light of the reference to "duties".

Defined terms: "Coordinator" § 15–101
"Council" § 15–101
"State's Attorney" § 15–101

SUBTITLE 4. COUNTYWIDE PROVISIONS.

15–401. COMPENSATION — IN GENERAL.

(A) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY FOR A COUNTY SHALL RECEIVE:

(I) AN ANNUAL SALARY FOR PERFORMING THE DUTIES OF THE OFFICE AS SET FORTH IN THE PUBLIC GENERAL LAWS AND THE PUBLIC LOCAL LAWS OF THE COUNTY; AND

(II) AN ANNUAL PAYMENT FOR OFFICE, TRAVEL, AND OTHER EXPENSES AS PROVIDED BY LAW AND THE CURRENT PRACTICE OF THE COUNTY.

(2) UNLESS OTHERWISE SPECIFIED, A COUNTY SHALL PAY THE SALARY AND EXPENSES IN EQUAL MONTHLY INSTALLMENTS.

(B) OTHER COMPENSATION PROHIBITED.

(1) EXCEPT FOR NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN TRYING A CASE REMOVED TO ANOTHER COUNTY, A STATE'S ATTORNEY MAY NOT RECEIVE ANY OTHER COMPENSATION FOR PERFORMING THE DUTIES OF THE OFFICE.

(2) ANY FEES TO WHICH THE STATE'S ATTORNEY MAY BE ENTITLED SHALL BE:

(I) COLLECTED AND PAID TO THE GOVERNING BODY OF THE COUNTY; AND

(II) CREDITED TO THE GENERAL FUND OF THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(a) and (y).

In subsection (a) of this section, the former clause "[t]he salaries and expenses are as follows:" is deleted as unnecessary.

In subsection (b)(1) of this section, the former reference to "commission or emolument of any kind" is deleted as surplusage.

Also in subsection (b)(1) of this section, the former reference to cases removed to "Baltimore City" is deleted because the definition of "county" found in § 1–101 of this article includes Baltimore City.

In subsection (b)(2)(i) of this section, the reference to "governing body of the county" is substituted for the former reference to the "board of county commissioners or county council of his county" for brevity.

The Criminal Procedure Article Additions Committee notes, for consideration by the General Assembly, that in subsection (b)(2) of this section, it is unclear which fees are referenced.

Defined terms: "County" § 1–101
"State's Attorney" § 15–101

15–402. ALLEGANY COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN ALLEGANY COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND IN EFFECT ON DECEMBER 31 OF THE YEAR IMMEDIATELY BEFORE THE START OF THE STATE'S ATTORNEY'S TERM OF OFFICE.

(C) DUTIES.

AS DETERMINED BY THE STATE'S ATTORNEY, THE STATE'S ATTORNEY, A DEPUTY STATE'S ATTORNEY, OR AN ASSISTANT STATE'S ATTORNEY SHALL:

(1) PRESENT CASES TO THE GRAND JURY; AND

(2) PERFORM OTHER NECESSARY DUTIES IN RELATION TO THE GRAND JURY, THE DISTRICT COURT OF MARYLAND, AND THE CIRCUIT COURT, INCLUDING THE JUVENILE COURT.

(D) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

THE STATE'S ATTORNEY MAY APPOINT:

(1) TWO DEPUTY STATE'S ATTORNEYS WHO SHALL SERVE FULL TIME AND WHOSE SALARIES MAY NOT BE LESS THAN 80% OF THE SALARY OF THE STATE'S ATTORNEY; AND

(2) AS MANY ASSISTANT STATE'S ATTORNEYS THAT THE COUNTY COMMISSIONERS AUTHORIZE AND FUND.

(E) INVESTIGATORS.

(1) THE STATE'S ATTORNEY SHALL APPOINT A COUNTY INVESTIGATOR AND AN ASSISTANT COUNTY INVESTIGATOR IN ACCORDANCE WITH §§ 12–1A AND 12–1B OF THE ALLEGANY COUNTY CODE.

(2) THE COUNTY INVESTIGATOR AND ASSISTANT COUNTY INVESTIGATOR SHALL BE FUNDED IN ACCORDANCE WITH § 12–1A OF THE ALLEGANY COUNTY CODE.

(F) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(b).

In subsection (b) of this section, the former references to the salary of the State's Attorney in calendar years 1999, 2000, and 2001 are deleted as obsolete.

In subsection (c) of this section, the phrase "[a]s determined by the State's Attorney" is substituted for the former phrase "in the judgment of the State's Attorney" for simplicity.

In subsection (c)(2) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

Also in subsection (c)(2) of this section, the former term "acts" is deleted as implicit in the term "duties".

In subsection (d) of this section, the phrase "serve full time" is substituted for the former phrase "fulfill the responsibilities of their positions on a full–time basis" for brevity.

In subsection (f) of this section, the former phrase "[w]hile in office" is deleted as surplusage.

Defined term: "State's Attorney" § 15–101

15–403. ANNE ARUNDEL COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN ANNE ARUNDEL COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY:

(1) FOR CALENDAR YEAR 2003, IS EQUAL TO THE SALARY OF A CIRCUIT COURT JUDGE AS OF DECEMBER 31, 2002; AND

(2) SHALL BE INCREASED EACH CALENDAR YEAR THEREAFTER BY 3% OVER THE SALARY OF THE STATE'S ATTORNEY FOR THE PREVIOUS CALENDAR YEAR.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY:

(I) 1. APPOINT TWO DEPUTY STATE'S ATTORNEYS; AND

2. SUBJECT TO THE APPROVAL OF THE COUNTY, SET SALARIES FOR THE DEPUTY STATE'S ATTORNEYS THAT MAY NOT EXCEED 90% OF THE STATE'S ATTORNEY'S SALARY; AND

(II) 1. APPOINT THE NUMBER OF ASSISTANT STATE'S ATTORNEYS AS PROVIDED BY THE COUNTY; AND

2. SUBJECT TO APPROVAL BY THE COUNTY, SET SALARIES FOR THE ASSISTANT STATE'S ATTORNEYS THAT MAY NOT EXCEED 80% OF THE STATE'S ATTORNEY'S SALARY.

(2) SUBJECT TO APPROVAL BY THE ADMINISTRATIVE JUDGE OF THE CIRCUIT COURT, THE STATE'S ATTORNEY MAY:

(I) APPOINT A TEMPORARY ASSISTANT STATE'S ATTORNEY FOR A PARTICULAR CASE OR SERIES OF CASES; AND

(II) SUBJECT TO THE APPROVAL OF THE COUNTY, SET THE COMPENSATION FOR THE TEMPORARY ASSISTANT STATE'S ATTORNEY.

(D) OTHER STAFF.

THE STATE'S ATTORNEY MAY APPOINT CLERICAL, ADMINISTRATIVE, INVESTIGATIVE, AND OTHER STAFF THE STATE'S ATTORNEY CONSIDERS NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.

(E) RESTRICTION ON PRACTICE.

(1) (I) EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF THE OFFICE, THE STATE'S ATTORNEY MAY NOT APPEAR AS COUNSEL OR REPRESENT ANY PARTY BEFORE A COURT OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(II) THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(2) THE DEPUTY STATE'S ATTORNEYS SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF CRIMINAL LAW.

(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE ASSISTANT STATE'S ATTORNEYS:

(I) MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF CRIMINAL LAW; AND

(II) EXCEPT FOR ONE ASSISTANT STATE'S ATTORNEY, SHALL SERVE FULL TIME.

(4) IN ACCORDANCE WITH THE ANNE ARUNDEL COUNTY CODE, THE STATE'S ATTORNEY MAY DESIGNATE TWO OR MORE ASSISTANT STATE'S ATTORNEYS TO SHARE ONE OR MORE FULL–TIME POSITIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(c).

In subsection (b) of this section, the former phrase "of the eight judicial circuits" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to "from time to time, if considered necessary," is deleted as surplusage.

In subsection (d) of this section, the reference to "staff" is substituted for the former reference to "assistants" for consistency with similar provisions in this subtitle.

Also in subsection (d) of this section, the reference to "considers" necessary is substituted for the former reference to "as in his judgment may be" necessary for brevity.

In subsection (e)(1)(i) of this section, the reference to a "unit" is substituted for the former reference to a "board, commission or agency" for brevity and to conform to the terminology used in other revised articles of the Code.

Also in subsection (e)(1)(i) of this section, the former phrase "during his term of office" is deleted as surplusage.

Also in subsection (e)(1)(i) of this section, the former reference to a "county" is deleted as included in the reference to a "political subdivision of the State".

Defined term: "State's Attorney" § 15–101

15–404. BALTIMORE COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.

(B) SALARY.

SUBJECT TO ARTICLE III, § 35 OF THE MARYLAND CONSTITUTION, AND BEGINNING WITH THE TERM OF THE STATE'S ATTORNEY WHO WAS ELECTED TO THAT POSITION IN 1982, THE STATE'S ATTORNEY'S SALARY:

(1) IS EQUAL TO THE SALARY OF A CIRCUIT COURT JUDGE; AND

(2) SHALL BE INCREASED 5% EACH YEAR DURING THE STATE'S ATTORNEY'S TERM OF OFFICE.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) (I) THE STATE'S ATTORNEY SHALL APPOINT TWO DEPUTY STATE'S ATTORNEYS, ONE OF WHOM SHALL BE DESIGNATED DEPUTY STATE'S ATTORNEY OF TRIAL AND ADMINISTRATION AND THE OTHER SHALL BE DESIGNATED DEPUTY STATE'S ATTORNEY OF OPERATIONS.

(II) A DEPUTY STATE'S ATTORNEY SHALL PERFORM THE WORK THAT THE STATE'S ATTORNEY REQUIRES.

(III) SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL, THE STATE'S ATTORNEY SHALL SET THE SALARIES OF THE DEPUTY STATE'S ATTORNEYS.

(2) (I) AS AUTHORIZED BY THE COUNTY EXECUTIVE, THE STATE'S ATTORNEY MAY APPOINT ASSISTANT STATE'S ATTORNEYS.

(II) SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL, THE STATE'S ATTORNEY SHALL SET THE SALARIES OF THE ASSISTANT STATE'S ATTORNEYS.

(3) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS.

(D) OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY APPOINT CLERICAL, ADMINISTRATIVE, AND OTHER STAFF THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.

(2) THE STAFF APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PERFORM CLERICAL AND OTHER WORK AS DIRECTED BY THE STATE'S ATTORNEY.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY AND THE DEPUTY STATE'S ATTORNEYS SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(d).

In subsection (b)(1) of this section, the former phrase "of the eight judicial circuits" is deleted as surplusage.

In subsection (c)(3) of this section, the former reference to "the trial of" criminal proceeding is deleted as surplusage and to reflect the practice of deputy State's Attorneys and assistant State's Attorneys, who may also represent the State in criminal proceedings before and after trial.

In subsection (d) of this section, the references to "staff" are substituted for the former references to "assistants" for consistency with similar provisions in this subtitle.

Defined term: "State's Attorney" § 15–101

15–405. CALVERT COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CALVERT COUNTY.

(B) SALARY.

(1) THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) A SALARY INCREASE SHALL TAKE EFFECT AT THE BEGINNING OF THE ELECTED TERM OF OFFICE AND MAY NOT INCREASE DURING THE TERM OF OFFICE.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) SUBJECT TO APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY SHALL APPOINT A DEPUTY STATE'S ATTORNEY AND AN ASSISTANT STATE'S ATTORNEY, AS NEEDED.

(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(3) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:

(I) SHALL SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) SHALL PERFORM WORK AS DIRECTED BY THE STATE'S ATTORNEY; AND

(III) MAY PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER FUNCTIONS NECESSARY TO THE OPERATION OF THE OFFICE.

(D) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(e).

In subsection (c)(3)(iii) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (d) of this section, the former phrase "[w]hile in office" is deleted as surplusage.

Defined term: "State's Attorney" § 15–101

15–406. CAROLINE COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CAROLINE COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS 80% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) THE STATE'S ATTORNEY IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS.

(C) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(f).

In subsection (b)(2) of this section, the phrase "is entitled to reimbursement for" expenses is substituted for the former phrase "shall receive" expenses for consistency with standard language used in other revised articles of the Code.

Defined term: "State's Attorney" § 15–101

15–407. CARROLL COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CARROLL COUNTY.

(B) SALARY; OFFICE; EXPENSES.

(1) (I) THE STATE'S ATTORNEY'S SALARY IS 80% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(II) A SALARY INCREASE SHALL TAKE EFFECT AT THE BEGINNING OF THE ELECTED TERM OF OFFICE AND MAY NOT INCREASE DURING THE TERM OF OFFICE.

(2) THE COUNTY COMMISSIONERS SHALL:

(I) PROVIDE SPACE FOR THE OFFICES OF THE STATE'S ATTORNEY AND PAY THE EXPENSES OF THE OFFICE, INCLUDING GENERAL OPERATING EXPENSES, EQUIPMENT COSTS, AND REASONABLE COSTS FOR SECRETARIAL OR STENOGRAPHIC NEEDS; OR

(II) AS DETERMINED BY THE COUNTY COMMISSIONERS, PAY A REASONABLE ALLOWANCE TO REIMBURSE THE STATE'S ATTORNEY FOR THE COSTS OF THE OPERATION OF THE OFFICE.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY:

(I) MAY APPOINT TWO DEPUTY STATE'S ATTORNEYS AND THE NUMBER OF ASSISTANT STATE'S ATTORNEYS NECESSARY TO STAFF THE OFFICE; AND

(II) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, SHALL SET THE SALARIES FOR THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(2) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF BOTH THE STATE'S ATTORNEY AND THE RESIDENT JUDGE OF THE CIRCUIT COURT OF THE COUNTY CONSIDER IT NECESSARY AND THE JUDGE APPROVES, THE STATE'S ATTORNEY MAY APPOINT AN ASSISTANT STATE'S ATTORNEY.

(II) THE COUNTY COMMISSIONERS SHALL SET THE SALARY OF AN ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH.

(D) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY SHALL SERVE FULL TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(g).

In subsection (b)(2)(ii) of this section, the former reference to "in lieu of providing space and expenses" is deleted in light of the conjunction "or".

Also in subsection (b)(2)(ii) of this section, the former reference to "providing the same" is deleted as surplusage.

In subsection (d) of this section, the phrase "serve full time" is substituted for the former reference to "devote full time to the duties of office" for brevity and consistency with similar provisions in this subtitle.

Defined term: "State's Attorney" § 15–101

15–408. CECIL COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CECIL COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY IS ENTITLED TO:

(I) A SALARY THAT IS 95% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND; AND

(II) THE SAME BENEFITS AS A FULL–TIME COUNTY EMPLOYEE.

(2) THE STATE'S ATTORNEY:

(I) IS ENTITLED TO A REASONABLE EXPENSE ALLOWANCE FOR THE OPERATION OF THE OFFICE AND PERFORMANCE OF THE DUTIES OF STATE'S ATTORNEY AS PROVIDED IN THE COUNTY BUDGET; AND

(II) SUBJECT TO THE APPROVAL OF THE ADMINISTRATIVE JUDGE OF THE CIRCUIT COURT FOR THE COUNTY, MAY SPEND $1,500 EACH YEAR FOR SPECIAL WORK AND EMPLOYING EXTRA HELP.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) (I) THE STATE'S ATTORNEY MAY APPOINT ONE DEPUTY STATE'S ATTORNEY AND THE NUMBER OF ASSISTANT STATE'S ATTORNEYS AS PROVIDED IN THE COUNTY BUDGET.

(II) THE SALARY OF THE DEPUTY STATE'S ATTORNEY AND THE ASSISTANT STATE'S ATTORNEYS SHALL BE AS PROVIDED IN THE COUNTY BUDGET.

(2) THE DEPUTY STATE'S ATTORNEY AND THE ASSISTANT STATE'S ATTORNEYS HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS.

(3) THE DEPUTY STATE'S ATTORNEY AND THE ASSISTANT STATE'S ATTORNEYS:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) SERVE PART TIME; AND

(III) ARE ENTITLED TO THE SAME BENEFITS AS A FULL–TIME COUNTY EMPLOYEE.

(D) OTHER STAFF.

(1) (I) THE STATE'S ATTORNEY MAY APPOINT CLERICAL, SECRETARIAL, ADMINISTRATIVE, INVESTIGATIVE, AND OTHER SUPPORT STAFF THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.

(II) THE STATE'S ATTORNEY'S EXECUTIVE SECRETARY AND CRIMINAL INVESTIGATORS SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY.

(III) EXCEPT FOR THE STATE'S ATTORNEY'S EXECUTIVE SECRETARY AND CRIMINAL INVESTIGATORS, THE POSITIONS APPOINTED UNDER THIS SUBSECTION ARE SUBJECT TO COUNTY PERSONNEL POLICIES AND PROCEDURES GOVERNING COUNTY EMPLOYEES.

(2) THE SALARIES OF THE POSITIONS APPOINTED UNDER THIS SUBSECTION SHALL BE AS PROVIDED IN THE COUNTY BUDGET.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(h).

In subsections (b)(1)(ii) and (c)(3)(iii) of this section, the phrase "the same benefits as a full–time county employee" is substituted for the former phrase "all benefits received by full–time employees of Cecil County" to reflect the general preference in revised articles of the Code for the use of the singular rather than the plural construction.

In subsection (b)(2) of this section, the former phrase "[i]n addition to the compensation provided for in this section" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to "the trial of" criminal proceedings is deleted as surplusage.

In subsection (d)(1)(i) of this section, the former reference to the State's Attorney being "the appointing authority for all employees of that office" is deleted as surplusage.

In subsection (e) of this section, the former phrase "during the State's Attorney's term of office" is deleted as surplusage.

Also in subsection (e) of this section, the phrase "serve full time" is substituted for the former phrase "devote full time to the duties of the office" for brevity and consistency with similar provisions in this subtitle.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that the provision in subsection (b)(2)(ii) of this section that allows the State's Attorney to spend money "subject to the approval of the administrative judge of the circuit court for the county" may be unconstitutional because it assigns a nonjudicial duty to the administrative judge. *See Robey v. Commissioners of Prince George's County*, 92 Md. 150, 48A. 98 (1900), which held that a statute requiring the circuit courts to approve the accounts of sheriffs as a

prerequisite to the county's payment of those accounts was unconstitutional.

The Criminal Procedure Article Additions Review Committee also notes, for consideration by the General Assembly, that according to the State's Attorney for Cecil County, notwithstanding the language of subsection (c)(3)(ii) of this section, the three assistant State's Attorneys serve full time.

Defined term: "State's Attorney" § 15–101

15–409. CHARLES COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CHARLES COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS EQUAL TO THE SALARY OF A CIRCUIT COURT JUDGE.

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY IS ENTITLED TO REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED DURING THE PERFORMANCE OF THE DUTIES OF THE OFFICE.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT DEPUTY STATE'S ATTORNEYS AND ASSISTANT STATE'S ATTORNEYS.

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS AND PARAGRAPH (3) OF THIS SUBSECTION, THE STATE'S ATTORNEY SHALL SET THE SALARY FOR POSITIONS APPOINTED UNDER THIS SUBSECTION.

(3) THE SALARY OF AN ASSISTANT STATE'S ATTORNEY MAY NOT EXCEED THE SALARY OF THE STATE'S ATTORNEY.

(4) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:

(I) SHALL SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) SHALL PERFORM WORK AS DIRECTED BY THE STATE'S ATTORNEY OR AS AUTHORIZED BY LAW; AND

(III) MAY PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER FUNCTIONS NECESSARY TO OPERATE THE OFFICE.

(D) OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY APPOINT CLERICAL, ADMINISTRATIVE, INVESTIGATIVE, AND OTHER STAFF THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY SHALL SET THE SALARIES FOR THE EMPLOYEES APPOINTED UNDER THIS SUBSECTION.

(3) AN EMPLOYEE APPOINTED UNDER THIS SUBSECTION IS ENTITLED TO THE SAME BENEFITS AS A COUNTY EMPLOYEE.

(E) RESTRICTION ON PRACTICE.

(1) THE STATE'S ATTORNEY:

(I) SHALL SERVE FULL TIME; AND

(II) EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF THE OFFICE, MAY NOT:

1. APPEAR AS COUNSEL OR REPRESENT ANY PARTY BEFORE A COURT OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

2. OTHERWISE ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(2) A DEPUTY STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(3) AN ASSISTANT STATE'S ATTORNEY MAY SERVE FULL TIME OR PART TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF CRIMINAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(i).

In subsection (b)(2) of this section, the former phrase "[i]n addition to the compensation provided for in this section" is deleted as surplusage.

In subsection (c)(4)(iii) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (d)(1) and (2) of this section, the terms "staff" and "employees" are substituted for the former terms "assistants" and "positions", respectively, to conform to the terminology used throughout this subtitle.

In subsection (d)(3) of this section, the phrase "the same benefits as a county employee" is substituted for the former phrase "all benefits received by county employees" to reflect the general preference in revised articles of the Code for the use of the singular rather than the plural construction.

In subsection (e)(1) of this section, the former phrase "while in office" is deleted as surplusage.

In subsection (e)(1)(ii)1 of this section, the reference to a "unit" is substituted for the former reference to a "board, commission, or agency" for brevity and to conform to the terminology used in other revised articles of the Code.

Defined term: "State's Attorney" § 15–101

15–410. DORCHESTER COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN DORCHESTER COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS 80% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE STATE'S ATTORNEY IS ENTITLED TO AN ALLOWANCE FOR THE EXPENSES OF OPERATING THE OFFICE, INCLUDING THE COSTS OF TELEPHONE CHARGES, OFFICE SUPPLIES AND EQUIPMENT, POSTAGE, TRAVEL, TRAINING, CONFERENCES, BOOKS AND PUBLICATIONS, AND PREMIUMS ON OFFICE BONDS.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF FULL–TIME OR PART–TIME DEPUTY STATE'S ATTORNEYS AND ASSISTANT STATE'S ATTORNEYS THAT THE COUNTY COUNCIL APPROVES.

(2) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SHALL:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) RECEIVE COMPENSATION AS APPROVED BY THE COUNTY COUNCIL; AND

(III) HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO PRESENT CASES TO THE GRAND JURY AND PERFORM ALL OTHER NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF THE OFFICE.

(D) OTHER STAFF.

SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE STATE'S ATTORNEY MAY EMPLOY ADMINISTRATIVE AND CLERICAL EMPLOYEES WHO SHALL:

(1) RECEIVE SALARIES IN ACCORDANCE WITH THE COUNTY PAY SCALE; AND

(2) BE CONSIDERED COUNTY EMPLOYEES AND MEMBERS OF THE PENSION SYSTEM IN WHICH A COUNTY EMPLOYEE IS ELIGIBLE FOR MEMBERSHIP.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY:

(1) SHALL SERVE FULL TIME;

(2) MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW; AND

(3) EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF THE OFFICE, MAY NOT APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(j).

In subsection (c)(2)(ii) of this section, the former reference to "salaries" is deleted as included in the reference to "compensation".

In subsection (c)(2)(iii) of this section, the former term "acts" is deleted as implicit in the term "duties".

Also in subsection (c)(2)(iii) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (e)(2) and (3) of this section, the former phrases "while in office" are deleted as surplusage.

In subsection (e)(2) of this section, the former phrase "at any time in any jurisdiction" is deleted as surplusage.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (b)(2) of this section, the reference to "premiums on office bonds" may be obsolete. Under former Art. 10, § 35, now revised as § 15–104 of this title, each State's Attorney gave a corporate surety bond payable to the State in the sum of $5,000. The corporate bond was partly conditioned on the State's Attorney accounting for all funds and property received under color of the office. It is believed that the phrase "color of the office" referred to duties such as collection of revenues and bringing forfeiture actions no longer performed by a modern State's Attorney.

Defined term: "State's Attorney" § 15–101

15–411. FREDERICK COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN FREDERICK COUNTY.

(B) SALARY; OFFICE; EXPENSES.

(1) THE STATE'S ATTORNEY'S ANNUAL SALARY IS EQUAL TO THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) THE COUNTY COMMISSIONERS SHALL:

(I) PROVIDE AN OFFICE IN THE COURTHOUSE FOR THE STATE'S ATTORNEY;

(II) PAY THE OFFICE EXPENSES, INCLUDING GENERAL OPERATING EXPENSES AND THE COST OF EQUIPMENT; AND

(III) PAY THE REASONABLE SALARY OF A STENOGRAPHER TO BE APPOINTED BY THE STATE'S ATTORNEY.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) (I) THE STATE'S ATTORNEY MAY APPOINT TWO DEPUTY STATE'S ATTORNEYS WHO SHALL:

1. SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

2. UNDER THE DIRECTION OF THE STATE'S ATTORNEY, PRESENT CASES TO THE GRAND JURY AND PERFORM OTHER NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF THE OFFICE.

(II) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY SHALL SET THE SALARY OF EACH DEPUTY STATE'S ATTORNEY.

(2) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF FULL–TIME AND PART–TIME ASSISTANT STATE'S ATTORNEYS THAT ARE APPROVED BY THE COUNTY COMMISSIONERS AND WHO:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) RECEIVE THE COMPENSATION THAT THE COUNTY COMMISSIONERS APPROVE; AND

(III) HAVE THE SAME LEGAL POWERS THAT THE STATE'S ATTORNEY HAS TO PRESENT CASES TO THE GRAND JURY AND PERFORM OTHER NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF THE OFFICE.

(D) OTHER STAFF.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY APPOINT OTHER STAFF.

(2) EMPLOYEES APPOINTED UNDER THIS SUBSECTION SHALL:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

(II) RECEIVE THE COMPENSATION THAT THE COUNTY COMMISSIONERS APPROVE.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY AND DEPUTY STATE'S ATTORNEYS MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(k).

In subsection (c)(1)(i)2 and (2)(iii) of this section, the former references to "proper" are deleted in light of the references to "necessary".

Also in subsection (c)(1)(i)2 and (2)(iii) of this section, the former term "acts" is deleted as implicit in the term "duties".

In subsections (c)(2)(ii) and (d)(2)(ii) of this section, the former references to "salaries" are deleted as included in the references to "compensation".

In subsection (d)(1) and (2) of this section, the terms "staff" and "employees" are substituted for the former terms "staff personnel" and "persons", respectively, to conform to the terminology used throughout this subtitle.

Defined term: "State's Attorney" § 15–101

15–412. GARRETT COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN GARRETT COUNTY.

(B) SALARY; EXPENSES.

(1) THE COUNTY COMMISSIONERS SHALL SET THE STATE'S ATTORNEY'S SALARY IN ACCORDANCE WITH CHAPTER 91 OF THE PUBLIC LOCAL LAWS OF GARRETT COUNTY.

(2) (I) THE STATE'S ATTORNEY'S ALLOWANCE FOR OFFICE EXPENSES SHALL BE AT LEAST $10,000.

(II) AN ALLOWANCE OF MORE THAN $10,000 SHALL BE AT THE DISCRETION OF THE COUNTY COMMISSIONERS.

(C) ASSISTANT STATE'S ATTORNEYS.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS AND AS PROVIDED FOR IN THE COUNTY BUDGET, THE STATE'S ATTORNEY MAY APPOINT ASSISTANT STATE'S ATTORNEYS.

(2) AN ASSISTANT STATE'S ATTORNEY SHALL:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

(II) RECEIVE A SALARY OF AT LEAST $25,000.

(D) INVESTIGATORS; OTHER STAFF.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS AND IF PROVIDED FOR IN THE COUNTY BUDGET, THE STATE'S ATTORNEY MAY APPOINT INVESTIGATORS WHO SHALL:

(I) BE LAW ENFORCEMENT OFFICERS IN THE STATE; AND

(II) HAVE THE SAME POWERS, RIGHTS, PROTECTIONS, AND BENEFITS AS A COUNTY DEPUTY SHERIFF.

(2) (I) THE STATE'S ATTORNEY MAY EMPLOY CLERICAL, ADMINISTRATIVE, INVESTIGATIVE, AND OTHER STAFF NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.

(II) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS AND IN CONFORMITY WITH THE COUNTY PAY AND CLASSIFICATION PLANS, THE STATE'S ATTORNEY SHALL SET THE SALARIES AND CLASSIFICATIONS FOR THE EMPLOYEES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY SHALL SERVE FULL TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(l).

In subsection (b)(1) of this section, the former references to salaries in calendar years 1991 through 1994 are deleted as obsolete.

In subsection (d)(1)(ii) of this section, the former reference to "fringe" benefits is deleted as surplusage.

In subsection (d)(2)(i) of this section, the reference to "staff" is substituted for the former reference to "personnel" to conform to the terminology used throughout this subtitle.

In subsection (e) of this section, the phrase "serve full time" is substituted for the former phrase "devote full time to the duties of office" for brevity and consistency with similar provisions in this subtitle.

Defined term: "State's Attorney" § 15–101

15–413. HARFORD COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN HARFORD COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS $98,500.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ON OR AFTER JULY 1 OF EACH YEAR, THE SALARY SHALL BE ADJUSTED USING THE ANNUAL CONSUMER PRICE INDEX THAT IS PUBLISHED BY THE U.S. BUREAU OF LABOR STATISTICS:

(I) FOR THE PERIOD ENDING EACH DECEMBER;

(II) FOR ALL REGIONS; AND

(III) TO REFLECT THE ANNUAL CHANGE IN THE "CONSUMER PRICE INDEX" FOR "ALL URBAN CONSUMERS" FOR THE EXPENDITURE CATEGORY "ALL ITEMS NOT SEASONALLY ADJUSTED".

(3) THE ANNUAL ADJUSTMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT EXCEED 3% IN A FISCAL YEAR.

(4) THE COUNTY GOVERNMENT SHALL PAY ALL REASONABLE EXPENSES FOR THE CONDUCT OF THE OFFICE.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT:

(I) NOT MORE THAN TWO DEPUTY STATE'S ATTORNEYS; AND

(II) THE NUMBER OF ASSISTANT STATE'S ATTORNEYS AUTHORIZED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

(2) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) RECEIVE COMPENSATION AS PROVIDED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL; AND

(III) HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS.

(D) OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY APPOINT A SECRETARY OR CLERICAL ASSISTANT WHO SHALL:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

(II) RECEIVE A SALARY THAT CONFORMS TO THE EXEMPT CLASSIFICATION AND PAY PLAN AUTHORIZED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

(2) (I) THE STATE'S ATTORNEY MAY EMPLOY CLERICAL, ADMINISTRATIVE, INVESTIGATIVE, AND OTHER STAFF NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.

(II) SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE AND COUNTY COUNCIL AND IN CONFORMITY WITH THE COUNTY PAY AND CLASSIFICATION PLANS, THE STATE'S ATTORNEY SHALL SET SALARIES AND CLASSIFICATIONS FOR EMPLOYEES APPOINTED UNDER THIS PARAGRAPH.

(III) AN EMPLOYEE APPOINTED UNDER THIS PARAGRAPH IS ENTITLED TO THE SAME BENEFITS AS A SIMILARLY CLASSIFIED COUNTY EMPLOYEE.

(E) RESTRICTION ON PRACTICE.

EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF THE OFFICE, THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW OR APPEAR AS COUNSEL OR REPRESENT ANY PARTY BEFORE A COURT OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(m).

In subsection (b)(1) of this section, the former references to the salaries "commencing July 1, 2004", "commencing January 1, 2007", and "on or after July 1, 2007" are deleted as obsolete.

In subsection (b)(2) of this section, the former phrase "while in office" is deleted as surplusage.

In subsection (c)(2)(ii) of this section, the former reference to "salaries" is deleted as included in the reference to "compensation".

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (c)(2)(iii) of this section, the former overly narrow reference to "the trial of" criminal proceedings is deleted to reflect the practice of deputy State's Attorneys and assistant State's Attorneys, who may also represent the State in criminal proceedings before and after trial.

In subsection (d)(2)(i) of this section, the term "staff" is substituted for the former term "personnel" to conform to the terminology used throughout this subtitle.

In subsection (e) of this section, the reference to a "unit" is substituted for the former reference to a "board, commission or agency" for brevity.

Also in subsection (e) of this section, the former reference to a "county" is deleted as included in the reference to a "political subdivision of the State".

Also in subsection (e) of this section, the former phrases "[d]uring the term in office", "[t]he intent is that", and "in any manner" are deleted as unnecessary.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (e) of this section, which revises former Art. 10, § 40(m)(2)(iii), the prohibition against the State's Attorney "appear[ing] as counsel or represent[ing] any party before a court or unit of the State or a political subdivision" apparently includes lobbying professionally. This prohibition therefore may be broader than the second sentence of former Art. 10, § 40(m)(2)(iii), which states "[t]he intent is that the State's Attorney may not engage in the private practice of law in any manner".

Defined term: "State's Attorney" § 15–101

15–414. HOWARD COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN HOWARD COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY IS EQUAL TO THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT TWO DEPUTY STATE'S ATTORNEYS AND THE NUMBER OF ASSISTANT STATE'S ATTORNEYS AUTHORIZED BY THE COUNTY EXECUTIVE.

(2) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:

(I) SHALL SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL RECEIVE A SALARY SET BY THE COUNTY EXECUTIVE WITH THE APPROVAL OF THE COUNTY COUNCIL;

(III) SHALL HAVE THE SAME LEGAL POWER AS THE STATE'S ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS; AND

(IV) UNDER THE DIRECTION OF THE STATE'S ATTORNEY, MAY PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER NECESSARY DUTIES RELATING TO THE GRAND JURY AND THE OPERATION OF THE OFFICE AS DIRECTED BY THE STATE'S ATTORNEY OR AUTHORIZED BY LAW.

(3) THE SALARY FOR A DEPUTY STATE'S ATTORNEY MAY NOT BE LESS THAN $6,000 EACH YEAR.

(D) OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY EMPLOY AN ADMINISTRATIVE ASSISTANT WHO MAY:

(I) COLLECT AND DISTRIBUTE MONEYS PAYABLE FOR THE SUPPORT OF DEPENDENTS UNDER ORDERS ISSUED FROM COURTS IN THIS STATE OR ANOTHER STATE; AND

(II) RETAIN 2% OF THE MONEYS COLLECTED TO BE PAID TO THE COUNTY COUNCIL TO DEFRAY THE COSTS OF THE SERVICE.

(2) THE SALARY OF THE ADMINISTRATIVE ASSISTANT SHALL BE SET BY THE COUNTY EXECUTIVE WITH THE APPROVAL OF THE COUNTY COUNCIL.

(E) AUDIT.

(1) NOT LATER THAN 3 MONTHS AFTER THE CLOSE OF EACH FISCAL YEAR, THE COUNTY AUDITOR SHALL EXAMINE THE BOOKS AND ACCOUNTS OF THE STATE'S ATTORNEY'S OFFICE AND PREPARE A FINANCIAL AUDIT FOR THE PRECEDING FISCAL YEAR.

(2) THE FINANCIAL AUDIT SHALL BE:

(I) SUBMITTED TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL; AND

(II) INCLUDED IN THE ANNUAL AUDIT OF THE COUNTY REQUIRED BY ARTICLE 19, § 40 OF THE CODE.

(3) AT ANY TIME THE COUNTY EXECUTIVE OR COUNTY COUNCIL MAY ORDER A SPECIAL AUDIT OF THE STATE'S ATTORNEY'S OFFICE IN ACCORDANCE WITH § 213 OF THE HOWARD COUNTY CHARTER.

(F) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(n).

In subsection (c)(2)(iii) of this section, the former reference to "the trial of" criminal proceedings is deleted as surplusage and to reflect the practice of deputy State's Attorneys and assistant State's Attorneys, who may also represent the State in criminal proceedings before and after trial.

In subsection (c)(2)(iv) of this section, the former reference to "acts" is deleted in light of the reference to "duties". Similarly, the former reference to "proper" is deleted in light of the reference to "necessary".

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that subsection (d) of this section, which concerns an administrative assistant in the office who collects child support moneys, may be obsolete. The Office of the State's Attorney has not collected or distributed child support moneys for several years. The Division of Human Resources in the State Office of the Attorney General now performs this function.

Defined terms: "State" § 1–101
"State's Attorney" § 15–101

15–415. KENT COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN KENT COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS 80% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) (I) THE COUNTY COMMISSIONERS SHALL SET THE STATE'S ATTORNEY'S ALLOWANCE FOR OFFICE EXPENSES.

(II) THE STATE'S ATTORNEY SHALL SUBMIT EXPENSE VOUCHERS TO THE COUNTY COMMISSIONERS FOR APPROVAL AND PAYMENT.

(3) (I) THE STATE'S ATTORNEY HAS A SPECIAL FUND ALLOWANCE OF $4,000 FOR THE COSTS OF INVESTIGATIONS.

(II) AT THE END OF EACH FISCAL YEAR:

1. THE STATE'S ATTORNEY SHALL ACCOUNT TO THE COUNTY COMMISSIONERS FOR EXPENDITURES FROM THE FUND; AND

2. ANY BALANCE REMAINING IN THE FUND SHALL REVERT TO THE GENERAL FUND OF THE COUNTY.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY EMPLOY ONE OR MORE DEPUTY STATE'S ATTORNEYS AND ASSISTANT STATE'S ATTORNEYS WHO SHALL:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

(II) BE MEMBERS IN GOOD STANDING OF THE LOCAL BAR.

(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(D) CRIMINAL INVESTIGATOR; OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY EMPLOY A CRIMINAL INVESTIGATOR WHO SERVES AT THE PLEASURE OF THE STATE'S ATTORNEY.

(2) THE STATE'S ATTORNEY MAY EMPLOY AN ADMINISTRATIVE COORDINATOR AND OTHER ADMINISTRATIVE AND CLERICAL STAFF THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY FOR THE CONDUCT OF THE OFFICE.

(3) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF THE CRIMINAL INVESTIGATOR, ADMINISTRATIVE COORDINATOR, AND ADMINISTRATIVE AND CLERICAL STAFF.

(E) RESTRICTION ON PRACTICE.

(1) THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, A DEPUTY OR ASSISTANT STATE'S ATTORNEY MAY ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(o).

In subsection (d)(2) and (3) of this section, the references to "staff" are substituted for the former references to "assistants" to conform to the terminology used throughout this subtitle.

In subsection (e)(1) of this section, the former phrase "during the State's Attorney's term of office" is deleted as surplusage.

Also in subsection (e)(1) of this section, the reference to "serve full time" is substituted for the former reference to "devote full time to the duties of the office" for brevity and consistency with similar provisions in this subtitle.

Defined term: "State's Attorney" § 15–101

15–416. MONTGOMERY COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

(B) SALARY; EXPENSES.

(1) THE COUNTY COUNCIL SHALL SET THE SALARY OF THE STATE'S ATTORNEY.

(2) SUBJECT TO APPROVAL BY THE COUNTY COUNCIL, THE STATE'S ATTORNEY IS ENTITLED A REASONABLE EXPENSE ALLOWANCE FOR THE OPERATION OF THE OFFICE AND PERFORMANCE OF THE DUTIES OF THE STATE'S ATTORNEY.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT TWO DEPUTY STATE'S ATTORNEYS AND THE NUMBER OF ASSISTANT STATE'S ATTORNEYS THAT THE COUNTY COUNCIL APPROVES.

(2) EACH DEPUTY AND ASSISTANT STATE'S ATTORNEY IS:

(I) SUBJECT TO THE EXCLUSIVE CONTROL OF THE STATE'S ATTORNEY; AND

(II) ENTITLED TO THE SAME BENEFITS AS A COUNTY EMPLOYEE UNDER THE MERIT SYSTEM.

(3) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:

(I) SHALL PERFORM THE WORK DIRECTED BY THE STATE'S ATTORNEY OR AUTHORIZED BY LAW; AND

(II) UNDER THE DIRECTION OF THE STATE'S ATTORNEY, MAY PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER NECESSARY DUTIES RELATING TO THE GRAND JURY AND THE OPERATION OF THE OFFICE.

(4) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS APPOINTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE STATE'S ATTORNEY MAY FILE A PETITION IN CIRCUIT COURT FOR AUTHORITY TO APPOINT ADDITIONAL ASSISTANT STATE'S ATTORNEYS.

(II) THE STATE'S ATTORNEY SHALL:

1. INCLUDE THE REASONS FOR THE APPOINTMENT IN THE PETITION; AND

2. DELIVER NOTICE OF THE PETITION TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

(III) THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY FILE A RESPONSE TO EACH PETITION.

(IV) THE COUNTY SHALL PAY THE SALARY AND EXPENSES OF AN ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH.

(D) SPECIAL INVESTIGATORS.

(1) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF SPECIAL INVESTIGATORS APPROVED BY THE COUNTY COUNCIL.

(2) (I) IN ADDITION TO THE SPECIAL INVESTIGATORS APPOINTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE STATE'S ATTORNEY MAY FILE A PETITION IN CIRCUIT COURT FOR AUTHORITY TO APPOINT ADDITIONAL SPECIAL INVESTIGATORS.

(II) THE STATE'S ATTORNEY SHALL:

1. INCLUDE THE REASONS FOR THE APPOINTMENT IN THE PETITION; AND

2. DELIVER NOTICE OF THE PETITION TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

(III) THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY FILE A RESPONSE TO EACH PETITION.

(3) THE COUNTY SHALL PAY THE SALARY AND EXPENSES OF A SPECIAL INVESTIGATOR APPOINTED UNDER THIS SUBSECTION.

(4) A SPECIAL INVESTIGATOR APPOINTED UNDER THIS SUBSECTION:

(I) IS DIRECTLY UNDER THE SUPERVISION OF THE STATE'S ATTORNEY; AND

(II) SHALL PERFORM EACH DUTY DESIGNATED BY THE STATE'S ATTORNEY.

(5) A SPECIAL INVESTIGATOR APPOINTED UNDER THIS SUBSECTION IS:

(I) SUBJECT TO THE EXCLUSIVE CONTROL OF THE STATE'S ATTORNEY; AND

(II) ENTITLED TO THE SAME BENEFITS AS A COUNTY EMPLOYEE UNDER THE MERIT SYSTEM.

(E) OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF ADMINISTRATIVE ASSISTANTS, CLERKS, ADMINISTRATIVE AIDES, PARALEGAL INTERNS, AND OTHER STAFF THAT THE COUNTY COUNCIL APPROVES.

(2) THE EMPLOYEES APPOINTED UNDER THIS SUBSECTION ARE:

(I) SUBJECT TO THE EXCLUSIVE CONTROL OF THE STATE'S ATTORNEY; AND

(II) ENTITLED TO THE SAME BENEFITS AS COUNTY EMPLOYEES UNDER THE MERIT SYSTEM.

(F) RESTRICTION ON PRACTICE OR EMPLOYMENT.

(1) THE STATE'S ATTORNEY, DEPUTY STATE'S ATTORNEYS, AND ASSISTANT STATE'S ATTORNEYS SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(2) A SPECIAL INVESTIGATOR SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN OTHER EMPLOYMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(p).

In subsection (b)(2) of this section, the former reference to "in addition to compensation provided for in this section" is deleted as surplusage.

In subsections (c)(1), (d)(1) and (4)(ii), and (e)(1) of this section, the former references to "from time to time" are deleted as surplusage.

In subsection (c)(3)(i) of this section, the former reference to "acts" is deleted in light of the reference to "duties". Similarly, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (e) of this section, the references to "staff" and "employees" are substituted for the former references to "personnel" to conform to the terminology used throughout this subtitle.

In subsection (f)(1) of this section, the former phrase "in any jurisdiction or at any time during their tenure in office" is deleted as unnecessary. Similarly, in subsection (f)(2) of this section, the former phrase "at any time during their employment as special investigators" is deleted.

Also in subsection (f)(1) of this section, the reference to "serve full time" is substituted for the former reference to "devote their full time and attention to the duties of their respective offices" for brevity and consistency with similar provisions in this subtitle. Similarly, in subsection (f)(2) of this section, the reference to "serve full time" is substituted for the former reference to "devote their full time and attention to their duties as special investigators".

Defined term: "State's Attorney" § 15–101

15–417. PRINCE GEORGE'S COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS $125,500.

(2) THE STATE'S ATTORNEY'S SALARY AND EXPENSES SHALL BE PAID IN EQUAL SEMIMONTHLY INSTALLMENTS.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT TWO DEPUTY STATE'S ATTORNEYS AND 80 ASSISTANT STATE'S ATTORNEYS.

(2) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY.

(3) THE SALARY OF A DEPUTY STATE'S ATTORNEY SHALL BE WITHIN THE DISCRETION OF THE STATE'S ATTORNEY BUT MAY NOT EXCEED $115,000.

(4) THE SALARY OF AN ASSISTANT STATE'S ATTORNEY SHALL BE WITHIN THE DISCRETION OF THE STATE'S ATTORNEY BUT MAY NOT EXCEED $107,000.

(5) THE COUNTY SHALL PAY THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:

(I) ON CERTIFICATION OF THE STATE'S ATTORNEY TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL; AND

(II) IN EQUAL SEMIMONTHLY INSTALLMENTS.

(6) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:

(I) SHALL PERFORM THE WORK DIRECTED BY THE STATE'S ATTORNEY OR AS AUTHORIZED BY LAW; AND

(II) UNDER THE DIRECTION OF THE STATE'S ATTORNEY, MAY PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER NECESSARY DUTIES RELATING TO THE GRAND JURY AND THE OPERATION OF THE OFFICE.

(D) OTHER STAFF.

(1) (I) THE STATE'S ATTORNEY MAY APPOINT AN ADMINISTRATIVE ASSISTANT WHO SERVES AT THE PLEASURE OF THE STATE'S ATTORNEY.

(II) THE SALARY OF THE ADMINISTRATIVE ASSISTANT SHALL BE WITHIN THE DISCRETION OF THE STATE'S ATTORNEY BUT MAY NOT EXCEED $64,000.

(III) THE COUNTY SHALL PAY THE SALARY OF THE ADMINISTRATIVE ASSISTANT ON CERTIFICATION OF THE STATE'S ATTORNEY TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

(IV) THE ADMINISTRATIVE ASSISTANT IS NOT SUBJECT TO THE REGULATIONS OF THE COUNTY MERIT SYSTEM BUT IS ENTITLED TO THE SAME BENEFITS AS A COUNTY EMPLOYEE UNDER THE MERIT SYSTEM.

(2) (I) EACH ELIGIBLE, FULL–TIME, NONEXEMPT EMPLOYEE, AS DESCRIBED IN THE PRINCE GEORGE'S COUNTY LABOR CODE, OF THE STATE'S ATTORNEY'S OFFICE IS SUBJECT TO THE PRINCE GEORGE'S COUNTY PERSONNEL LAW.

(II) EMPLOYEES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. MAY ORGANIZE AND BARGAIN COLLECTIVELY; AND

2. ARE SUBJECT TO THE PRINCE GEORGE'S COUNTY LABOR CODE WITH REGARD TO COLLECTIVE BARGAINING FOR COMPENSATION, INCLUDING PENSION AND FRINGE BENEFITS, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

(III) THE COUNTY EXECUTIVE IS THE EMPLOYER OF AN EMPLOYEE DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR THE PURPOSE OF COLLECTIVE BARGAINING FOR HOURS AND COMPENSATION, INCLUDING PENSION AND FRINGE BENEFITS.

(IV) 1. THE STATE'S ATTORNEY IS THE EMPLOYER OF AN EMPLOYEE DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR THE PURPOSE OF COLLECTIVE BARGAINING FOR OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

2. THE FUNDING REQUIRED FOR A COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BY THE STATE'S ATTORNEY UNDER THIS SUBPARAGRAPH IS SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE.

(E) RESTRICTION ON PRACTICE.

(1) EXCEPT IN CONNECTION WITH DUTIES OF THE OFFICE, THE STATE'S ATTORNEY OR A DEPUTY OR ASSISTANT STATE'S ATTORNEY MAY NOT APPEAR AS COUNSEL OR REPRESENT ANY PARTY BEFORE A COURT OR UNIT OF THE STATE, OR POLITICAL SUBDIVISION OF THE STATE.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE STATE'S ATTORNEY OR A DEPUTY OR ASSISTANT STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(II) THE STATE'S ATTORNEY OR A DEPUTY OR ASSISTANT STATE'S ATTORNEY MAY PARTICIPATE IN THE PRO BONO PROGRAM ADMINISTERED BY THE PRINCE GEORGE'S COUNTY BAR FOUNDATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(q).

In subsection (b) of this section, the former references to salaries in calendar years 1999 through 2005 are deleted as obsolete.

In subsection (c)(6) of this section, the former reference to "acts" is deleted in light of the reference to "duties". Similarly, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (e)(1) of this section, the reference to a "unit" is substituted for the former reference to a "board, commission, or agency" for brevity.

Also in subsection (e)(1) of this section, the former reference to a "county" is deleted as included in the reference to a "political subdivision of the State".

Defined term: "State's Attorney" § 15–101

15–418. QUEEN ANNE'S COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN QUEEN ANNE'S COUNTY.

(B) SALARY; EXPENSES.

(1) (I) THE STATE'S ATTORNEY'S SALARY IS EQUAL TO THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(II) THE SALARY SHALL BE SET BEFORE THE START OF THE ELECTED TERM OF OFFICE.

(2) THE STATE'S ATTORNEY IS ENTITLED TO REASONABLE EXPENSES AS PROVIDED IN THE COUNTY BUDGET FOR THE OPERATION OF THE OFFICE AND THE PERFORMANCE OF THE STATE'S ATTORNEY'S DUTIES.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY APPOINT ONE OR MORE DEPUTY STATE'S ATTORNEYS OR ASSISTANT STATE'S ATTORNEYS.

(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARY OF EACH DEPUTY AND ASSISTANT STATE'S ATTORNEY.

(3) THE STATE'S ATTORNEY, DEPUTY STATE'S ATTORNEYS, OR ASSISTANT STATE'S ATTORNEYS SHALL PRESENT CASES TO THE GRAND JURY AND PERFORM OTHER DUTIES IN RELATION TO THE GRAND JURY, THE CIRCUIT COURT, INCLUDING THE JUVENILE COURT, AND THE DISTRICT COURT THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY.

(D) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT:

(1) ENGAGE IN THE PRIVATE PRACTICE OF LAW; OR

(2) EXCEPT IN CONNECTION WITH THE DUTIES OF THE OFFICE, APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(r).

In subsection (b)(1) of this section, the phrase "before the start of the elected term of office" is substituted for the former reference to "first assumes his or her position during his or her term of office" for brevity.

In subsection (c)(3) of this section, the former reference to "acts" is deleted in light of the reference to "duties". Similarly, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (d)(1) of this section, the former phrase "during the State's Attorney's tenure in office" is deleted as surplusage.

Also in subsection (d)(1) of this section, the former reference to "at any time in any jurisdiction" is deleted as unnecessary.

Defined term: "State's Attorney" § 15–101

15–419. ST. MARY'S COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN ST. MARY'S COUNTY.

(B) SALARY; OFFICE; EXPENSES.

(1) (I) THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND AND SHALL BE PAID BIWEEKLY.

(II) A SALARY INCREASE SHALL TAKE EFFECT AT THE BEGINNING OF THE ELECTED TERM OF OFFICE AND MAY NOT INCREASE DURING THE TERM OF OFFICE.

(2) (I) THE COUNTY COMMISSIONERS SHALL PROVIDE FOR THE ADMINISTRATIVE SUPPORT STAFF, INDEPENDENT OFFICE FACILITIES, OFFICE EQUIPMENT, SUPPLIES, BOOKS, AND OTHER ITEMS NECESSARY FOR THE OPERATION OF THE OFFICE.

(II) THE STATE'S ATTORNEY SHALL PRESENT VOUCHERS TO THE COUNTY COMMISSIONERS FOR THE PAYMENT OF OFFICE EXPENSES.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT ONE DEPUTY STATE'S ATTORNEY AND TWO OR MORE ASSISTANT STATE'S ATTORNEYS WHO:

(I) SHALL SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

(II) MAY BE FULL–TIME OR PART–TIME EMPLOYEES.

(2) THE STATE'S ATTORNEY SHALL PAY THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS BIWEEKLY FROM MONEY THAT THE COUNTY COMMISSIONERS APPROPRIATE EACH YEAR.

(D) OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY APPOINT:

(I) ADMINISTRATIVE STAFF NECESSARY FOR THE OPERATION OF THE OFFICE; AND

(II) ONE OR MORE FULL–TIME OR PART–TIME INVESTIGATORS AS EMPLOYEES.

(2) THE STAFF APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN THE COUNTY MERIT SYSTEM.

(3) THE STATE'S ATTORNEY SHALL PAY THE SALARIES OF THE INVESTIGATORS APPOINTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION BIWEEKLY FROM MONEY THAT THE COUNTY COMMISSIONERS APPROPRIATE EACH YEAR.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT:

(1) ENGAGE IN THE PRIVATE PRACTICE OF LAW; AND

(2) EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF THE OFFICE, APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(s).

In subsections (c)(2) and (d)(3) of this section, the references to the requirement that the State's Attorney pay salaries of the deputy and assistant State's Attorneys and investigators from "money that the county commissioners appropriate each year" are substituted for the former reference to the requirement that the "County Commissioners shall make available to the State's Attorney an annual sum from which the State's Attorney shall appropriate salaries" for the deputy and assistant State's Attorneys and investigators for brevity.

In subsection (e) of this section, the former phrase "[d]uring his term of office" is deleted as surplusage.

Also in subsection (e) of this section, the former reference to practicing law "in any matter after December 31, 1982" is deleted as obsolete.

Defined term: "State's Attorney" § 15–101

15–420. SOMERSET COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN SOMERSET COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY IS $98,000.

(C) DEPUTY STATE'S ATTORNEY.

(1) THE STATE'S ATTORNEY MAY APPOINT A DEPUTY STATE'S ATTORNEY WHO SHALL:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

(II) PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER FUNCTIONS NECESSARY TO THE OPERATION OF THE OFFICE AND AS DIRECTED BY THE STATE'S ATTORNEY OR AS AUTHORIZED BY LAW.

(2) THE COUNTY COMMISSIONERS SHALL SET A SALARY FOR THE DEPUTY STATE'S ATTORNEY THAT MAY NOT EXCEED THE SALARY OF THE STATE'S ATTORNEY.

(D) OTHER STAFF.

THE STATE'S ATTORNEY MAY:

(1) APPOINT ONE OR MORE ASSISTANTS AT SALARIES THAT THE COUNTY COMMISSIONERS SET; AND

(2) HIRE ONE OR MORE INVESTIGATORS AT SALARIES PROVIDED IN THE COUNTY BUDGET.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY AND DEPUTY STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(t).

In subsection (c)(1) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (d)(2) of this section, the reference to "salaries provided in the county budget" is substituted for the former reference to "for which provision is made in the annual county budget" for clarity.

In subsection (e) of this section, the former phrase "during the State's Attorney's tenure of office" is deleted as surplusage.

Also in subsection (e) of this section, the former reference to "at any time in any jurisdiction" is deleted as unnecessary.

Defined term: "State's Attorney" § 15–101

15–421. TALBOT COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN TALBOT COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS 80% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE STATE'S ATTORNEY IS ENTITLED TO A REASONABLE ALLOWANCE FOR THE EXPENSES OF OPERATING THE OFFICE, INCLUDING THE COSTS OF:

(I) ADMINISTRATIVE, CLERICAL, AND SECRETARIAL EXPENSES, INCLUDING SALARIES AND BENEFITS;

(II) TELEPHONE CHARGES;

(III) OFFICE SUPPLIES AND EQUIPMENT;

(IV) POSTAGE;

(V) TRAVEL, TRAINING, AND CONFERENCES;

(VI) BOOKS AND PUBLICATIONS; AND

(VII) PREMIUMS ON OFFICE BONDS.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) (I) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF FULL–TIME OR PART–TIME DEPUTY STATE'S ATTORNEY AND ASSISTANT STATE'S ATTORNEYS THAT THE COUNTY COUNCIL APPROVES.

(II) EACH DEPUTY AND ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH SHALL:

1. SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

2. RECEIVE THE COMPENSATION THAT THE COUNTY COUNCIL APPROVES; AND

3. HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO PRESENT CASES TO THE GRAND JURY AND PERFORM NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF THE OFFICE.

(2) (I) THE STATE'S ATTORNEY MAY APPOINT SPECIAL ASSISTANT STATE'S ATTORNEYS AS THE STATE'S ATTORNEY CONSIDERS NECESSARY TO SERVE IN AN INVESTIGATION OR A CASE.

(II) A SPECIAL ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH:

1. SHALL SERVE ON A TEMPORARY BASIS;

2. SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL RECEIVE COMPENSATION FROM THE COUNTY COUNCIL IN THE FORM AND AMOUNT AUTHORIZED BY ORDER OF THE CIRCUIT COURT; AND

3. MAY NOT BE CONSIDERED TO HOLD AN OFFICE FOR PROFIT OR TO HAVE VACATED A PUBLIC OFFICE OR EMPLOYMENT IN

ANOTHER STATE'S ATTORNEY'S OFFICE BY SERVING AS A SPECIAL ASSISTANT STATE'S ATTORNEY.

(3) (I) THE COUNTY MAY NOT COMPENSATE AN INDIVIDUAL WHO IS APPOINTED AS A SPECIAL ASSISTANT STATE'S ATTORNEY AND IS EMPLOYED BY THE OFFICE OF THE ATTORNEY GENERAL, THE OFFICE OF THE STATE PROSECUTOR, OR THE OFFICE OF THE STATE'S ATTORNEY IN ANOTHER COUNTY.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COUNTY MAY ENTER INTO AN AGREEMENT TO REIMBURSE THE APPROPRIATE GOVERNMENTAL UNIT FOR THE SERVICES OF AN INDIVIDUAL EMPLOYED BY THAT GOVERNMENTAL UNIT WHO IS APPOINTED AS A SPECIAL ASSISTANT STATE'S ATTORNEY UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(D) CRIMINAL INVESTIGATORS.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE STATE'S ATTORNEY MAY APPOINT FULL–TIME OR PART–TIME CRIMINAL INVESTIGATORS.

(2) IF THE STATE'S ATTORNEY APPOINTS MORE THAN ONE CRIMINAL INVESTIGATOR, THE STATE'S ATTORNEY MAY DESIGNATE ONE AS CHIEF INVESTIGATOR AND ASSIGN OTHER RANKS AND TITLES TO THE OTHER CRIMINAL INVESTIGATORS.

(3) A CRIMINAL INVESTIGATOR WHO IS APPOINTED UNDER THIS SUBSECTION:

(I) SHALL SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) IS SUBJECT TO THE REGULATIONS OF THE STATE'S ATTORNEY;

(III) SHALL PERFORM THE DUTIES THAT THE STATE'S ATTORNEY DESIGNATES;

(IV) SHALL TAKE AN OATH OF OFFICE THAT THE CLERK OF THE CIRCUIT COURT ADMINISTERS;

(V) SHALL MEET THE CRITERIA REGARDING TRAINING AND EXPERIENCE THAT THE STATE'S ATTORNEY REQUIRES;

(VI) MAY SERVE A SUMMONS OR SUBPOENA THAT THE STATE'S ATTORNEY ISSUES;

(VII) MAY WEAR OR DISPLAY APPROPRIATE METALLIC BADGES THAT THE STATE'S ATTORNEY AUTHORIZES; AND

(VIII) IS NOT SUBJECT TO TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE.

(4) THE STATE'S ATTORNEY MAY DESIGNATE A CRIMINAL INVESTIGATOR AS A PEACE OFFICER IF THE CRIMINAL INVESTIGATOR MEETS THE SELECTION AND TRAINING STANDARDS OF THE POLICE TRAINING COMMISSION AS SET FORTH IN TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE.

(5) A CRIMINAL INVESTIGATOR DESIGNATED AS A PEACE OFFICER MAY NOT BE SUBJECT TO TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE.

(6) IN ADDITION TO THE AUTHORITY, DUTIES, AND LIMITATIONS DESCRIBED UNDER PARAGRAPH (3) OF THIS SUBSECTION, A CRIMINAL INVESTIGATOR DESIGNATED AS A PEACE OFFICER MAY:

(I) ARREST A PERSON WHO COMMITS A CRIME IN THE COUNTY OR IN A MUNICIPAL CORPORATION IN THE COUNTY;

(II) SERVE A WARRANT, SUMMONS, OR SUBPOENA THAT THE DISTRICT COURT OF MARYLAND IN THE COUNTY OR A CIRCUIT COURT ISSUES; AND

(III) POSSESS AND CARRY A FIREARM, INCLUDING A HANDGUN, OR OTHER WEAPON THAT THE STATE'S ATTORNEY REQUIRES.

(E) RESTRICTION ON PRACTICE.

(1) THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(2) AN ATTORNEY APPOINTED AS A SPECIAL ASSISTANT STATE'S ATTORNEY UNDER SUBSECTION (C)(2) OF THIS SECTION MAY NOT BE PRECLUDED FROM THE PRIVATE PRACTICE OF CRIMINAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(u).

In subsection (c)(1)(ii)2 of this section, the former reference to "salaries" is deleted as included in the reference to "compensation".

In subsection (c)(1)(ii)3 of this section, the former reference to "acts" is deleted in light of the reference to "duties". Similarly, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (c)(3) of this section, the references to an "individual" are substituted for the former references to a "person" because the position of a special assistant State's Attorney can be held only by a human being.

In subsection (c)(3)(ii) of this section, the term "governmental unit" is substituted for the former term "county, agency, or other governmental body" for consistency with other provisions in this subtitle and in other revised articles.

In subsection (d)(2) of this section, the former reference to the State's Attorney's ability to assign other ranks and titles to investigators "as the State's Attorney may deem appropriate" is deleted as unnecessary.

In subsection (e)(2) of this section, the phrase "private practice of criminal law" is substituted for the former phrase "accepting a criminal case in the private practice of the attorney" for brevity.

Also in subsection (e)(2) of this section, the former phrase "by virtue of the person's service on a temporary basis" is deleted as unnecessary in light of the requirement that each special assistant State's Attorney shall serve "on a temporary basis".

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (b)(2)(vii) of this section, the reference to "premiums on office bonds" may be obsolete. Under former Art. 10, § 35, now revised as § 15–104 of this title, each State's Attorney gave a corporate surety bond payable to the State in the sum of $5,000. The corporate bond was partly conditioned on the State's Attorney accounting for all funds and property received under color of the

office. It is believed that the phrase "color of the office" referred to duties such as collection of revenues and bringing forfeiture actions no longer performed by a modern State's Attorney.

Defined terms: "County" § 1–101
"State's Attorney" § 15–101

15–422. WASHINGTON COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY SHALL APPOINT:

(I) AT LEAST ONE BUT NOT MORE THAN TWO DEPUTY STATE'S ATTORNEYS; AND

(II) AS MANY ASSISTANT STATE'S ATTORNEYS THAT ARE APPROVED BY THE COUNTY COMMISSIONERS AND PROVIDED FOR IN THE COUNTY BUDGET.

(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(3) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SHALL SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY.

(4) UNDER THE DIRECTION OF THE STATE'S ATTORNEY OR IN THE STATE'S ATTORNEY'S ABSENCE, THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SHALL HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO:

(I) PERFORM ACTS AND DUTIES IN RELATION TO ALL CRIMINAL PROCEEDINGS; AND

(II) REPRESENT THE STATE IN ALL PROCEEDINGS IN RELATION TO THE GRAND JURY, CIRCUIT COURT, DISTRICT COURT OF MARYLAND, AND UNITS OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(D) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(v).

In subsection (c)(2) of this section, the reference to "set" the salaries for the deputy and assistant State's Attorneys is substituted for the former references to the salaries "are to be determined by" the County Commissioners for brevity.

In subsection (c)(4)(ii) of this section, the reference to "a political subdivision of the State" is substituted for the former reference to "any county or political subdivision" to conform to the terminology used throughout this subtitle.

In subsection (d) of this section, the former reference to "during his tenure of office" is deleted as surplusage.

Also in subsection (d) of this section, the former reference to "at any time in any jurisdiction" is deleted as unnecessary.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that former Art. 10, § 40(v)(4), which is revised in subsection (c)(4)(ii) of this section, relates in part to the duty of the State's Attorney to "represent the State in all proceedings in relation to grand jury, circuit court, the District Court, boards, commissions or agencies of this State or any county or political subdivision". This provision may be overbroad and overlap with authority of the Office of the County Attorney.

Defined term: "State's Attorney" § 15–101

15–423. WICOMICO COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN WICOMICO COUNTY.

(B) SALARY; EXPENSES; OFFICE.

(1) THE STATE'S ATTORNEY'S SALARY IS 90% OF THE ANNUAL SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) AFTER RECEIVING A VOUCHER SUBMITTED BY THE STATE'S ATTORNEY, THE COUNTY COUNCIL SHALL PAY ALL EXPENSES THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY FOR THE CONDUCT OF THE OFFICE, INCLUDING CLERICAL AND SECRETARIAL EXPENSES, TELEPHONE CHARGES, OFFICE SUPPLIES, POSTAGE, AND PREMIUMS ON OFFICIAL BONDS.

(3) THE STATE'S ATTORNEY SHALL MAINTAIN AND STAFF AN OFFICE IN THE WICOMICO COUNTY COURTHOUSE.

(C) ASSISTANT STATE'S ATTORNEYS.

(1) SUBJECT TO THE TERMS, CONDITIONS, AND SALARIES AS APPROVED BY THE COUNTY COUNCIL, THE STATE'S ATTORNEY MAY APPOINT ASSISTANT STATE'S ATTORNEYS WHO SHALL:

(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

(II) HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS.

(2) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STATE'S ATTORNEY MAY APPOINT SPECIAL ASSISTANT STATE'S ATTORNEYS TO SERVE FOR ONE OR MORE CASES:

(I) WITH THE PRIOR APPROVAL OF THE RESIDENT JUDGE OF THE CIRCUIT COURT AND THE COUNTY COUNCIL; AND

(II) SUBJECT TO THE TERMS, CONDITIONS, AND SALARIES THAT THE COUNTY COUNCIL APPROVES.

(D) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(w).

In subsection (b)(2) of this section, the former phrase "[f]rom and after the date of the enactment of this section" is deleted as surplusage.

In subsection (c)(1)(ii) of this section, the former reference to "the trial of" criminal proceedings is deleted as surplusage.

In subsection (c)(2) of this section, the reference to a special assistant State's Attorney serving for "one or more cases" is substituted for the former reference to "a particular case or series of cases" for brevity.

In subsection (c)(2)(ii) of this section, the former requirement that the County Council "set" the terms, conditions, and salaries of special assistant State's Attorneys is deleted in light of the requirement that the County Council "approves" the terms, conditions, and salaries.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (b)(2) of this section, the reference to "premiums on official bonds" may be obsolete. Under former Art. 10, § 35, now revised as § 15–104 of this title, each State's Attorney gave a corporate surety bond payable to the State in the sum of $5,000. The corporate bond was partly conditioned on the State's Attorney accounting for all funds and property received under color of the office. It is believed that the phrase "color of the office" referred to duties such as collection of revenues and bringing forfeiture actions no longer performed by a modern State's Attorney.

Defined term: "State's Attorney" § 15–101

15–424. WORCESTER COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN WORCESTER COUNTY.

(B) SALARY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) BY ENACTING AN ORDINANCE BEFORE THE ELECTION FILING DEADLINE FOR THE NEXT TERM OF OFFICE FOR THE STATE'S ATTORNEY, THE COUNTY COMMISSIONERS MAY SET THE SALARY AT AN AMOUNT EXCEEDING 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) (I) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF FULL–TIME OR PART–TIME DEPUTY STATE'S ATTORNEYS AND ASSISTANT STATE'S ATTORNEYS THAT THE COUNTY COMMISSIONERS APPROVE.

(II) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS APPOINTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY; AND

2. HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO PRESENT CASES TO THE GRAND JURY, REPRESENT THE STATE IN CRIMINAL PROCEEDINGS, AND PERFORM NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND OPERATION OF THE OFFICE.

(III) THE COUNTY COMMISSIONERS SHALL APPROVE THE COMPENSATION OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(2) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, WITH THE APPROVAL OF THE RESIDENT CIRCUIT COURT JUDGE OF THE COUNTY, THE STATE'S ATTORNEY MAY APPOINT TWO MEMBERS OF THE BAR OF WORCESTER COUNTY AS ASSISTANT STATE'S ATTORNEYS.

(II) ONE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH SHALL RECEIVE A SALARY SET BY THE BOARD OF COUNTY

COMMISSIONERS THAT MAY NOT BE LESS THAN $16,000, INCLUDING ANY STATE OR FEDERAL FUNDS PROVIDED FOR THE POSITION.

(III) THE OTHER ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH SHALL RECEIVE A SALARY THAT MAY NOT BE LESS THAN $12,000, INCLUDING ANY STATE OR FEDERAL FUNDS PROVIDED FOR THE POSITION.

(3) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS APPOINTED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, WITH THE PRIOR APPROVAL OF THE RESIDENT CIRCUIT COURT JUDGE OF THE COUNTY AND THE BOARD OF COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY APPOINT ADDITIONAL ASSISTANT STATE'S ATTORNEYS AS THE STATE'S ATTORNEY CONSIDERS NECESSARY.

(II) THE SALARY OF AN ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH SHALL BE SET AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS.

(D) SPECIAL INVESTIGATORS.

(1) IF AUTHORIZED BY AN ORDINANCE ENACTED BY THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY APPOINT TWO SPECIAL INVESTIGATORS WHO:

(I) SHALL SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

(II) SHALL PERFORM WORK AS DIRECTED BY AND UNDER THE SUPERVISION OF THE STATE'S ATTORNEY; AND

(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SHALL RECEIVE A SALARY DETERMINED BY THE COUNTY COMMISSIONERS.

(2) THE SALARY OF ONE SPECIAL INVESTIGATOR APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE LESS THAN $12,000, INCLUDING ANY STATE OR FEDERAL FUNDS PROVIDED FOR THE POSITION.

(E) RESTRICTION ON PRACTICE OR EMPLOYMENT.

(1) THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(2) (I) THE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER SUBSECTION (C)(2)(II) OF THIS SECTION SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(II) THE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER SUBSECTION (C)(2)(III) OF THIS SECTION MAY ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(3) A SPECIAL INVESTIGATOR APPOINTED UNDER SUBSECTION (D) OF THIS SECTION SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN OTHER EMPLOYMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(x).

In subsection (c)(1)(ii)2 of this section, the former reference to "acts" is deleted in light of the reference to "duties". Similarly, the former reference to "proper" is deleted in light of the reference to "necessary".

Also in subsection (c)(1)(ii)2 of this section, the former reference to "the trial of" criminal proceedings is deleted as surplusage.

In subsection (c)(1)(iii) of this section, the former reference to "salary" is deleted as included in the reference to "compensation".

In subsection (e)(1) of this section, the former reference to the requirement that the State's Attorney serves full time "[a]fter December 31, 1998" is deleted as obsolete.

In subsection (e)(2)(i) of this section, the former phrase "at any time in any jurisdiction during his tenure of office" is deleted as unnecessary.

In subsection (e)(3) of this section, the requirement that a special investigator "serve full time" is substituted for the former requirement that a special investigator "devote his full time and attention to his duty ... during the time he is employed as a special investigator" for brevity.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that subsection (c) of this section may be outdated. Currently, the Office of State's Attorney has two deputy

State's Attorneys and five assistant State's Attorneys. The salary amounts stated in subsection (c) of this section are no longer valid. In addition, there is no longer a resident circuit court judge in the county. Instead, there are three judges, one of whom is the administrative judge.

Defined term: "State's Attorney" § 15–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 10, § 40 did not contain a specific subsection relating to the Office of State's Attorney for Baltimore City. Consequently, that omission is reflected in this revision. Unlike the 23 other counties, the law regarding the salaries of the State's Attorney, the deputy State's Attorney, and assistant State's Attorneys and the appointment of deputy and assistant State's Attorneys in Baltimore City is found in the Maryland Constitution and in the Baltimore City Charter, and it has been acknowledged by the Maryland Court of Special Appeals.

Article V, § 9 of the Maryland Constitution states:

"... the State's Attorney for Baltimore City shall have the power to appoint a Deputy and such other Assistants as the Supreme Bench of Baltimore City may authorize or approve and until otherwise provided by the General Assembly, the said State's Attorney, Deputy and Assistants shall receive the following annual salaries: State's Attorney, seven thousand five hundred dollars; Deputy State's Attorney, five thousand dollars; Assistant State's Attorneys, four thousand dollars each; said salaries, or such salaries as the General Assembly may subsequently provide and such expenses for conducting the Office of the State's Attorney as the Supreme Bench of Baltimore City may authorize or approve shall be paid by the Mayor and City Council of Baltimore to the extent that the total of them exceeds the fees of his office, or as the General Assembly shall otherwise provide, and the Mayor and City Council of Baltimore shall not be liable for appearance fees to the State's Attorney."

Subsequent constitutional amendments in 1912, 1924, 1943, and 1976 provided specific salary amounts or authorized "such salaries as the General Assembly may subsequently provide."

Further, law concerning the salaries of the employees of the Office of State's Attorney in Baltimore City is in the Baltimore City Charter. Article VI, § 16 of the current Baltimore City Charter states:

"The Board of Estimates is hereby authorized and empowered to fix the salaries of the State's Attorney, the Deputy State's Attorney, and Assistant State's Attorneys of Baltimore City, in amounts not less than those prescribed by the Constitution of Maryland."

According to the Budget Director for Baltimore City, staffing and office expenses of the Office of the State's Attorney are reflected in the Office's budget request included in the Board's Ordinance of Estimates that the Board submits to the City Council for approval.

Finally, legal authority of the State's Attorney to appoint deputy and assistant State's Attorneys in Baltimore City has been addressed by the Court of Special Appeals. In *State v. Aquilla,* 18 Md. App. 487, 1973 (cert. denied, September 18, 1973) the court recognized that the Deputy State's Attorneys and Assistant State's Attorneys for Baltimore City are appointed pursuant to Article V, § 9 of the State Constitution. The court upheld the legitimacy of the State's Attorney for Baltimore City to appoint Special Assistant State's Attorneys under the authorization and with the approval of the Supreme Bench of Baltimore City to present cases to the grand jury concerning irregularities in the Traffic Division of the Municipal Court for the City.

TITLE 16. OFFICE OF THE PUBLIC DEFENDER.

SUBTITLE 1. DEFINITIONS; SCOPE OF TITLE.

16–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(a).

(B) BOARD OF TRUSTEES.

"BOARD OF TRUSTEES" MEANS THE BOARD OF TRUSTEES OF THE OFFICE OF THE PUBLIC DEFENDER ESTABLISHED UNDER § 16–301 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the "Board of Trustees of the Office of the Public Defender".

(C) DISTRICT.

"DISTRICT" MEANS AN AREA CONFORMING TO THE GEOGRAPHIC BOUNDARIES OF A DISTRICT COURT DISTRICT ESTABLISHED IN § 1–602 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(c).

The former reference to an area "comprising one or more political subdivisions" is deleted as unnecessary in light of the reference to an area "conforming to the geographic boundaries of a District Court district established in § 1–602 of the Courts Article".

(D) INDIGENT INDIVIDUAL.

"INDIGENT INDIVIDUAL" MEANS AN INDIVIDUAL WHO QUALIFIES AS AN INDIGENT INDIVIDUAL UNDER § 16–210 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to provide a definition of the term "indigent individual".

(E) OFFICE.

(1) "OFFICE" MEANS THE OFFICE OF THE PUBLIC DEFENDER.

(2) "OFFICE" INCLUDES EACH DISTRICT OFFICE AND BRANCH OFFICE OF THE PUBLIC DEFENDER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(b).

The former reference to offices "as are deemed necessary and hereinafter described" is deleted as surplusage.

Defined term: "District" § 16–101

(F) PANEL ATTORNEY.

"PANEL ATTORNEY" MEANS AN ATTORNEY WHO IS ELIGIBLE FOR APPOINTMENT AS AN ATTORNEY FOR AN INDIGENT INDIVIDUAL.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(e), as it related to an

attorney who qualifies and is eligible for appointment as counsel for an indigent individual.

The former reference to an attorney who "qualifies" for appointment as counsel to an indigent individual is deleted as implied in the reference to an attorney who "is eligible" for appointment.

The former reference to an indigent individual "as defined by this article" is deleted as surplusage.

The reference to an "attorney" is substituted for the former reference to a "counsel" to conform to the terminology used throughout this title.

Defined term: "Indigent individual" § 16–101

(G) REGIONAL ADVISORY BOARD.

"REGIONAL ADVISORY BOARD" MEANS A PUBLIC DEFENDER REGIONAL ADVISORY BOARD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 10(a).

(H) SERIOUS OFFENSE.

"SERIOUS OFFENSE" MEANS:

(1) A FELONY;

(2) A MISDEMEANOR OR OFFENSE PUNISHABLE BY CONFINEMENT FOR MORE THAN 3 MONTHS OR A FINE OF MORE THAN $500;

(3) A DELINQUENT ACT THAT WOULD BE A SERIOUS OFFENSE IF COMMITTED BY AN ADULT; OR

(4) AN OFFENSE IN WHICH, IN THE OPINION OF THE COURT, THE COMPLEXITY OF THE MATTER OR THE YOUTH, INEXPERIENCE, OR MENTAL CAPACITY OF THE ACCUSED REQUIRES REPRESENTATION OF THE ACCUSED BY AN ATTORNEY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(h).

In item (3) of this subsection, the phrase "if committed by an adult" is substituted for the former phrase "except for the age of the person involved" for clarity.

REVISOR'S NOTE TO SECTION:

Former Art. 27A, § 2(d), which defined "district public defender" as "the district public defender of each of the various districts described in subsection (c) of this section", is deleted because it merely repeated the ordinary meaning of the term "district public defender".

16–102. SCOPE OF TITLE.

EXCEPT AS OTHERWISE PROVIDED IN § 16–206 OF THIS TITLE, THIS TITLE APPLIES ONLY TO REPRESENTATION IN OR WITH RESPECT TO THE COURTS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27A, § 4(c).

The reference to "§ 16–206 of this title", which contains provisions concerning representation by the Office of an indigent individual in federal court, is added for clarity.

SUBTITLE 2. OFFICE OF THE PUBLIC DEFENDER.

16–201. POLICY OF STATE.

IT IS THE POLICY OF THE STATE TO:

(1) PROVIDE FOR THE REALIZATION OF THE CONSTITUTIONAL GUARANTEES OF COUNSEL IN THE REPRESENTATION OF INDIGENT INDIVIDUALS, INCLUDING RELATED NECESSARY SERVICES AND FACILITIES, IN CRIMINAL AND JUVENILE PROCEEDINGS IN THE STATE;

(2) ASSURE THE EFFECTIVE ASSISTANCE AND CONTINUITY OF COUNSEL TO INDIGENT ACCUSED INDIVIDUALS TAKEN INTO CUSTODY AND INDIGENT INDIVIDUALS IN CRIMINAL AND JUVENILE PROCEEDINGS BEFORE THE COURTS OF THE STATE; AND

(3) AUTHORIZE THE OFFICE OF THE PUBLIC DEFENDER TO ADMINISTER AND ASSURE ENFORCEMENT OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 1.

In the introductory language of this section, the former reference to the statement that it is "hereby declared to be" the policy of the State is deleted as surplusage.

In item (1) of this section, the reference to the defined term "indigent individual[s]" is substituted for the former reference to "indigents" to conform to the terminology used throughout this title.

In item (3) of this section, the former reference to the "provisions of" this title is deleted as surplusage.

Also in item (3) of this section, the former reference to the enforcement of this title "in accordance with its terms" is deleted as implicit in the reference to "enforcement of this title".

Defined term: "Indigent individual" § 16–101

16–202. OFFICE OF THE PUBLIC DEFENDER ESTABLISHED.

THERE IS AN OFFICE OF THE PUBLIC DEFENDER IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27A, § 3(a).

16–203. OFFICE PERSONNEL.

(A) PUBLIC DEFENDER AS HEAD OF OFFICE; QUALIFICATIONS; SALARY.

(1) THE HEAD OF THE OFFICE IS THE PUBLIC DEFENDER.

(2) THE PUBLIC DEFENDER SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE BOARD OF TRUSTEES.

(3) TO QUALIFY FOR APPOINTMENT AS PUBLIC DEFENDER, AN INDIVIDUAL SHALL BE AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE

STATE BY THE COURT OF APPEALS OF MARYLAND WHO HAS ENGAGED IN THE PRACTICE OF LAW FOR AT LEAST 5 YEARS BEFORE APPOINTMENT.

(4) THE PUBLIC DEFENDER SHALL RECEIVE THE SAME SALARY AS A JUDGE OF A CIRCUIT COURT.

(5) THE PUBLIC DEFENDER MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(B) DEPUTY AND DISTRICT PUBLIC DEFENDERS.

(1) WITH THE APPROVAL OF THE BOARD OF TRUSTEES, THE PUBLIC DEFENDER SHALL APPOINT:

(I) A DEPUTY PUBLIC DEFENDER; AND

(II) ONE DISTRICT PUBLIC DEFENDER FOR EACH DISTRICT OF THE DISTRICT COURT.

(2) THE DEPUTY PUBLIC DEFENDER AND EACH DISTRICT PUBLIC DEFENDER SHALL HAVE THE SAME QUALIFICATIONS AS THE PUBLIC DEFENDER.

(3) A DISTRICT PUBLIC DEFENDER SHALL:

(I) ASSIST THE PUBLIC DEFENDER TO PERFORM THE DUTIES OF THE OFFICE; AND

(II) SUBJECT TO THE SUPERVISION OF THE PUBLIC DEFENDER, BE IN CHARGE OF THE PUBLIC DEFENDER OFFICES IN THE DISTRICT FOR WHICH THE DISTRICT PUBLIC DEFENDER IS APPOINTED.

(C) APPOINTMENT OF ASSISTANT PUBLIC DEFENDERS.

(1) WITH THE ADVICE OF THE DISTRICT PUBLIC DEFENDERS, THE PUBLIC DEFENDER MAY APPOINT ASSISTANT PUBLIC DEFENDERS IN ACCORDANCE WITH THE STATE BUDGET.

(2) TO QUALIFY FOR APPOINTMENT AS AN ASSISTANT PUBLIC DEFENDER, AN INDIVIDUAL SHALL BE AN ATTORNEY AND ADMITTED TO PRACTICE LAW IN THE STATE BY THE COURT OF APPEALS OF MARYLAND.

(D) CONDITIONS OF SERVICE OF DEPUTY, DISTRICT, AND ASSISTANT PUBLIC DEFENDERS.

THE DEPUTY PUBLIC DEFENDER, DISTRICT PUBLIC DEFENDERS, AND ASSISTANT PUBLIC DEFENDERS:

(1) SHALL SERVE AT THE PLEASURE OF THE PUBLIC DEFENDER; AND

(2) MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF CRIMINAL LAW.

(E) OTHER PERSONNEL.

THE PUBLIC DEFENDER SHALL APPOINT INVESTIGATORS, STENOGRAPHIC ASSISTANTS, CLERICAL ASSISTANTS, AND OTHER PERSONNEL AS MAY BE REQUIRED TO ASSIST THE PUBLIC DEFENDER AND THE DISTRICT PUBLIC DEFENDERS TO PERFORM THE DUTIES OF THE OFFICE IN ACCORDANCE WITH THE STATE BUDGET.

(F) OFFICES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE PUBLIC DEFENDER SHALL ESTABLISH AND MAINTAIN SUITABLE OFFICES IN THE STATE.

(2) AT LEAST ONE PUBLIC DEFENDER'S OFFICE SHALL BE IN EACH DISTRICT.

(G) POSITIONS, COMPENSATION, AND EXPENSES.

THE NUMBER OF POSITIONS, COMPENSATION, AND EXPENSES FOR THE OFFICE SHALL BE IN ACCORDANCE WITH THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 3(b), (c), (d), (e), and the second through fifth sentences of (a).

In subsection (a)(4) of this section, the former reference to an "associate" judge, which does not exist on the circuit court, is deleted as erroneous.

In subsection (b)(2) of this section, the former phrase "to be eligible for appointment" is deleted as surplusage.

In subsection (c)(1) of this section, the standard code revision phrase "in accordance with the State budget" is substituted for the former phrase "in such number as authorized by the budget" for consistency and for accuracy, in light of the absence in the budget of a specified number of assistant public defenders that may be appointed. Similarly, in subsection (e) of this section, the phrase "in accordance with the State budget" is substituted for the former phrase "as provided in the budget"; and in subsection (g) of this section, the phrase "in accordance with the State budget" is substituted for the former phrase "as provided in the executive budget as specified in Article III, § 52(4)(b) of the Constitution of the State of Maryland, which shall be subject to approval by the General Assembly".

In subsection (e) of this section, the phrase "to perform" is substituted for the former phrase "for the proper performance of" for brevity.

In subsection (g) of this section, the reference to "compensation" is substituted for the former reference to "salaries" to conform to the terminology used throughout this title.

Defined terms: "Board of Trustees" § 16–101
"District" § 16–101
"Office" § 16–101

16–204. REPRESENTATION OF INDIGENT INDIVIDUAL.

(A) PROVIDERS OF REPRESENTATION.

REPRESENTATION OF AN INDIGENT INDIVIDUAL MAY BE PROVIDED IN ACCORDANCE WITH THIS TITLE BY THE PUBLIC DEFENDER OR, SUBJECT TO THE SUPERVISION OF THE PUBLIC DEFENDER, BY THE DEPUTY PUBLIC DEFENDER, DISTRICT PUBLIC DEFENDERS, ASSISTANT PUBLIC DEFENDERS, OR PANEL ATTORNEYS.

(B) PROCEEDINGS FOR WHICH REPRESENTATION SHALL BE PROVIDED.

(1) INDIGENT DEFENDANTS OR PARTIES SHALL BE PROVIDED REPRESENTATION UNDER THIS TITLE IN:

(I) A CRIMINAL OR JUVENILE PROCEEDING IN WHICH A DEFENDANT OR PARTY IS ALLEGED TO HAVE COMMITTED A SERIOUS OFFENSE;

(II) A CRIMINAL OR JUVENILE PROCEEDING IN WHICH AN ATTORNEY IS CONSTITUTIONALLY REQUIRED TO BE PRESENT PRIOR TO PRESENTMENT BEING MADE BEFORE A COMMISSIONER OR JUDGE;

(III) A POSTCONVICTION PROCEEDING FOR WHICH THE DEFENDANT HAS A RIGHT TO AN ATTORNEY UNDER TITLE 7 OF THIS ARTICLE;

(IV) ANY OTHER PROCEEDING IN WHICH CONFINEMENT UNDER A JUDICIAL COMMITMENT OF AN INDIVIDUAL IN A PUBLIC OR PRIVATE INSTITUTION MAY RESULT;

(V) A PROCEEDING INVOLVING CHILDREN IN NEED OF ASSISTANCE UNDER § 3–813 OF THE COURTS ARTICLE; OR

(VI) A FAMILY LAW PROCEEDING UNDER TITLE 5, SUBTITLE 3, PART II OR PART III OF THE FAMILY LAW ARTICLE, INCLUDING:

1. FOR A PARENT, A HEARING IN CONNECTION WITH GUARDIANSHIP OR ADOPTION;

2. A HEARING UNDER § 5–326 OF THE FAMILY LAW ARTICLE FOR WHICH THE PARENT HAS NOT WAIVED THE RIGHT TO NOTICE; AND

3. AN APPEAL.

(2) REPRESENTATION SHALL BE PROVIDED TO AN INDIGENT INDIVIDUAL IN ALL STAGES OF A PROCEEDING LISTED IN PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING, IN CRIMINAL PROCEEDINGS, CUSTODY, INTERROGATION, PRELIMINARY HEARING, ARRAIGNMENT, TRIAL, AND APPEAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 4(b), (d)(1), and the second sentence of (a).

In subsection (b)(1)(i) of this section, the former phrase "before the District Court of Maryland, the various circuit courts within the State of Maryland, and the Court of Special Appeals" is deleted as surplusage.

In subsection (b)(1)(ii) and (iii) of this section, the references to an "attorney" are substituted for the former references to a "counsel" to conform to the terminology used throughout this title.

In subsection (b)(1)(iv) of this section, the reference to "confinement" is substituted for the former reference "possible incarceration" to conform to the terminology used throughout this title.

Defined terms: "District" § 16–101
"Indigent individual" § 16–101
"Panel attorney" § 16–101
"Serious offense" § 16–101

16–205. TERMINATION OF REPRESENTATION.

REPRESENTATION OF AN INDIGENT INDIVIDUAL BY THE OFFICE OR BY A PANEL ATTORNEY SHALL CONTINUE UNTIL THE FINAL DISPOSITION OF THE CASE OR UNTIL THE ASSIGNED ATTORNEY IS RELIEVED BY THE PUBLIC DEFENDER OR ORDER OF THE COURT IN WHICH THE CASE IS PENDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 4(d)(2).

The defined term "panel attorney" is substituted for the former reference to "an attorney appointed by the Office" to conform to the terminology used throughout this title.

Defined terms: "Indigent individual" § 16–101
"Office" § 16–101
"Panel attorney" § 16–101

16–206. REPRESENTATION IN FEDERAL COURT.

(A) SCOPE.

THIS TITLE DOES NOT PROHIBIT THE OFFICE FROM REPRESENTING AN INDIGENT INDIVIDUAL IN FEDERAL COURT AT FEDERAL EXPENSE IF THE MATTER ARISES OUT OF OR IS RELATED TO AN ACTION PENDING OR RECENTLY PENDING IN A COURT OF CRIMINAL JURISDICTION OF THE STATE.

(B) COMPENSATION.

COMPENSATION PAID BY THE FEDERAL COURT TO THE PUBLIC DEFENDER, THE DEPUTY PUBLIC DEFENDER, A DISTRICT PUBLIC DEFENDER, OR AN ASSISTANT PUBLIC DEFENDER SHALL BE REMITTED TO THE GENERAL FUND OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 27A, § 4(c).

In subsection (a) of this section, the former reference to a federal court "of the United States" is deleted as surplusage.

Defined terms: "District" § 16–101
"Indigent individual" § 16–101
"Office" § 16–101

16–207. DUTIES AND POWERS OF PUBLIC DEFENDER.

(A) PRIMARY DUTY OF PUBLIC DEFENDER.

THE PRIMARY DUTY OF THE PUBLIC DEFENDER IS TO PROVIDE REPRESENTATION FOR INDIGENT INDIVIDUALS IN ACCORDANCE WITH THIS TITLE.

(B) GENERAL DUTIES.

THE PUBLIC DEFENDER SHALL:

(1) BE RESPONSIBLE GENERALLY FOR THE OPERATION OF THE OFFICE AND ALL DISTRICT OFFICES;

(2) PREPARE SCHEDULES OF PROFESSIONAL FEES AND EXPENSES FOR PANEL ATTORNEYS AND OTHER PROFESSIONAL AND TECHNICAL SERVICES RENDERED TO INDIGENT INDIVIDUALS OTHER THAN BY THE PUBLIC DEFENDER'S STAFF, TAKING INTO CONSIDERATION THE NATURE OF THE SERVICES, THE TIME SPENT, THE SKILL OR EXPERIENCE REQUIRED, AND ANY OTHER PERTINENT FACTOR;

(3) CONSULT AND COOPERATE WITH PROFESSIONAL GROUPS ABOUT THE CAUSES OF CRIMINAL CONDUCT AND THE DEVELOPMENT OF EFFECTIVE MEANS TO:

(I) REDUCE AND DISCOURAGE THE COMMISSION OF CRIME;

(II) REHABILITATE AND CORRECT INDIVIDUALS CHARGED AND CONVICTED OF CRIME;

(III) ADMINISTER CRIMINAL JUSTICE; AND

(IV) ADMINISTER AND CONDUCT THE OFFICE; AND

(4) MAINTAIN FINANCIAL AND STATISTICAL RECORDS ABOUT EACH CASE IN WHICH THE OFFICE PROVIDES LEGAL ASSISTANCE TO AN INDIGENT INDIVIDUAL, INCLUDING DATA TO CALCULATE ALL DIRECT AND INDIRECT COSTS TO THE OFFICE.

(C) GENERAL POWERS.

THE PUBLIC DEFENDER MAY:

(1) ADOPT REGULATIONS TO CARRY OUT THE PURPOSES OF THIS TITLE AND PROMOTE THE EFFICIENT CONDUCT OF THE WORK AND GENERAL ADMINISTRATION OF THE OFFICE, ITS PROFESSIONAL STAFF, AND OTHER EMPLOYEES;

(2) MAKE NECESSARY ARRANGEMENTS TO COORDINATE SERVICES OF THE OFFICE WITH ANY FEDERAL PROGRAM TO PROVIDE AN ATTORNEY TO INDIGENT INDIVIDUALS;

(3) ARRANGE FOR THE OFFICE TO RECEIVE MONEY OR SERVICES AVAILABLE TO ASSIST IN THE DUTIES UNDER THIS TITLE; AND

(4) ACCEPT THE SERVICES OF VOLUNTEER WORKERS OR CONSULTANTS AT NO COMPENSATION OR AT NOMINAL OR TOKEN COMPENSATION AND REIMBURSE THEM FOR THEIR NECESSARY EXPENSES.

(D) SERVICES IN BALTIMORE CITY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN BALTIMORE CITY, THE PUBLIC DEFENDER MAY CONTRACT WITH PRIVATE OR PUBLIC ORGANIZATIONS TO PROVIDE LEGAL, ADMINISTRATIVE, OR TECHNICAL SERVICES FOR INDIGENT INDIVIDUALS.

(2) A CONTRACT SHALL REQUIRE THAT:

(I) THE LEVEL AND QUALITY OF THE WORK AT LEAST EQUAL THAT OF THE OFFICE; AND

(II) THE PUBLIC DEFENDER SUPERVISE AND CONTROL ALL SERVICES RENDERED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 5 and the first sentence of § 4(a).

In subsection (a) of this section, the defined term "indigent individual" is substituted for the former reference to "indigent defendant" because this title applies to a party who is the subject of a juvenile proceeding, civil commitment proceeding, or family law proceeding as well as to a defendant in a criminal proceeding.

In subsection (b)(3) of this section, the former reference to "bodies" is deleted in light of the reference to "groups".

In subsection (b)(4) of this section, the former reference to "keep" financial and statistical records is deleted in light of the reference to "maintain" the records.

Also in subsection (b)(4) of this section, the former reference to "proper" financial and statistical records is deleted as surplusage.

Also in subsection (b)(4) of this section, the phrase "costs to the Office" is substituted for the former phrase "costs incident to the operation of the office" for brevity.

In subsection (c)(1) of this section, the reference to the power of the Public Defender to "adopt regulations" is substituted for the former reference to the power to "formulate and adopt rules and regulations as are necessary" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to conform to the terminology used in other revised articles.

In subsection (c)(2) of this section, the reference to an "attorney" is substituted for the former reference to a "counsel" to conform to the terminology used throughout this title.

In subsection (c)(3) of this section, the former reference to "obligations" is deleted in light of the reference to "duties".

In subsection (c)(4) of this section, the former reference to "proper" expenses is deleted in light of the reference to "necessary" expenses.

In subsection (d)(1) of this section, the former phrase "from time to time" is deleted as surplusage.

Also in subsection (d)(1) of this section, the former phrase "that are equipped" is deleted as surplusage.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that it is unclear whether subsection (d)(1) of this section allows a Public Defender to:

(a) enter into a contract in Baltimore City;

(b) enter into a contract with an organization that is located in Baltimore City; or

(c) enter into a contract for services to be provided in Baltimore City.

Defined terms: "District" § 16–101
"Indigent individual" § 16–101
"Office" § 16–101
"Panel attorney" § 16–101

16–208. PANEL ATTORNEYS.

(A) LIST OF AVAILABLE ATTORNEYS TO BE MAINTAINED.

(1) SUBJECT TO THE AUTHORITY AND SUPERVISION OF THE PUBLIC DEFENDER, EACH DISTRICT PUBLIC DEFENDER SHALL MAINTAIN A CONFIDENTIAL LIST OF PRIVATE ATTORNEYS AVAILABLE TO BE APPOINTED AS ATTORNEYS FOR INDIGENT INDIVIDUALS ELIGIBLE FOR REPRESENTATION UNDER THIS TITLE.

(2) EACH ATTORNEY ON THE LIST SHALL BE:

(I) ADMITTED TO PRACTICE LAW IN THE STATE; AND

(II) PLACED ON VARIOUS PANELS IN ACCORDANCE WITH QUALIFICATION CRITERIA THAT THE PUBLIC DEFENDER SETS FORTH, BASED ON:

1. THE NATURE AND COMPLEXITY OF THE OFFENSE REQUIRING REPRESENTATION;

2. THE TRIAL OR APPELLATE EXPERIENCE OF THE ATTORNEY; AND

3. ANY OTHER FACTOR NECESSARY TO ENSURE COMPETENT REPRESENTATION.

(B) REPRESENTATION OF INDIGENT INDIVIDUALS.

(1) EXCEPT IN CASES IN WHICH AN ATTORNEY IN THE OFFICE PROVIDES REPRESENTATION, THE DISTRICT PUBLIC DEFENDER, SUBJECT TO THE SUPERVISION OF THE PUBLIC DEFENDER, SHALL APPOINT AN ATTORNEY FROM AN APPROPRIATE PANEL TO REPRESENT AN INDIGENT INDIVIDUAL.

(2) PANEL ATTORNEYS SHALL BE USED AS MUCH AS PRACTICABLE.

(C) PRIMARY DUTY OF PANEL ATTORNEYS.

(1) THE PRIMARY DUTY OF A PANEL ATTORNEY IS TO THE INDIGENT INDIVIDUAL REPRESENTED BY THE PANEL ATTORNEY WITH THE SAME EFFECT AND PURPOSE AS THOUGH PRIVATELY ENGAGED BY THAT INDIVIDUAL AND WITHOUT REGARD TO THE USE OF PUBLIC FUNDS TO PROVIDE THE SERVICE.

(2) A PANEL ATTORNEY SHALL REPORT TO THE OFFICE AS THE REGULATIONS OF THE PUBLIC DEFENDER REQUIRE.

(3) THIS SUBSECTION DOES NOT PRECLUDE THE DESIGNATION OR ASSIGNMENT OF DIFFERENT INDIVIDUALS TO PERFORM VARIOUS PARTS OF THE SERVICE.

(D) COMPENSATION.

(1) A PANEL ATTORNEY SHALL FILE A PETITION TO BE COMPENSATED BY THE PUBLIC DEFENDER FOR FEES AND EXPENSES INCIDENT TO REPRESENTING INDIGENT INDIVIDUALS, INCLUDING INVESTIGATION, OTHER PRETRIAL PREPARATION, TRIAL, AND APPEAL.

(2) THE OFFICE SHALL AUTHORIZE PAYMENT OF FEES AND EXPENSES ACCORDING TO SCHEDULES PREPARED UNDER § 16–207(B)(2) OF THIS SUBTITLE AND FROM FUNDS APPROPRIATED BY THE STATE BUDGET.

(3) A PANEL ATTORNEY MAY NOT RECEIVE A FEE FOR SERVICES IN ADDITION TO THAT PROVIDED IN ACCORDANCE WITH THIS TITLE.

(4) TO BE COMPENSATED FOR FEES OR EXPENSES THAT THE PUBLIC DEFENDER DISAPPROVES OR THAT EXCEED THOSE AUTHORIZED FOR PAYMENT, A PANEL ATTORNEY MAY SEEK A REVIEW BY A REGIONAL ADVISORY BOARD.

(5) ALL FEES AND EXPENSES PAID TO PANEL ATTORNEYS, INCLUDING ANY AUTHORIZED BY A REGIONAL ADVISORY BOARD, SHALL BE PAID OUT OF FUNDS APPROPRIATED BY THE STATE BUDGET.

(E) STAFF AND TECHNICAL ASSISTANCE.

THE OFFICE MAY PROVIDE STAFF AND TECHNICAL ASSISTANCE TO A PANEL ATTORNEY APPOINTED TO REPRESENT AN INDIGENT INDIVIDUAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 6(a) through (e) and § 2(g) and (e), as it related to any attorney licensed to practice law in the State.

In subsection (a)(1) of this section, the reference to "attorneys" is substituted for the former reference to "counsel" to conform to the terminology used throughout this title.

In subsection (a)(2)(ii)2 of this section, the former reference to the "previous" trial or appellate experience is deleted as surplusage.

In subsection (c)(1) of this section, the defined term "indigent individual" is substituted for the former reference to "the individual defendant" to conform to the terminology used throughout this title.

Also in subsection (c)(1) of this section, the former reference to a panel attorney "appointed by the Office of the Public Defender" is deleted as unnecessary because all panel attorneys are appointed by the Office.

In subsection (c)(2) of this section, the former reference to a panel attorney "who is assigned to represent an indigent person under this article" is deleted as surplusage.

Also in subsection (c)(2) of this section, the former requirement that a panel attorney must report to the Office "on his representation of the indigent person" is deleted in light of the requirement that the panel attorney shall report "as the regulations of the Public Defender require".

In subsection (c)(3) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (d)(1) of this section, the reference to "legal fees" is substituted for the former reference to "professional services" to conform to the terminology used throughout this subsection.

In subsection (d)(2) of this section, the reference to schedules "prepared under § 16–207(b)(2) of this subtitle" is substituted for the former reference to schedules "established from time to time by the Public Defender" for clarity.

In subsection (d)(3) of this section, the former reference to a panel attorney "who represents an indigent person under this article" is deleted as surplusage.

In subsection (d)(4) of this section, the former phrase "of his petition" is deleted as implicit in the word "review".

In subsection (d)(5) of this section, the defined term "regional advisory board" is substituted for the former erroneous reference to "district advisory boards".

Defined terms: "District" § 16–101
"Indigent individual" § 16–101
"Office" § 16–101
"Panel attorney" § 16–101
"Regional advisory board" § 16–101

16–209. PRIVILEGED COMMUNICATIONS.

(A) IN GENERAL.

COMMUNICATIONS BETWEEN AN INDIGENT INDIVIDUAL AND AN INDIVIDUAL IN THE OFFICE OR ENGAGED BY THE PUBLIC DEFENDER ARE

PROTECTED BY THE ATTORNEY–CLIENT PRIVILEGE TO THE SAME EXTENT AS THOUGH AN ATTORNEY HAD BEEN PRIVATELY ENGAGED.

(B) USE OF COMMUNICATIONS FOR PREPARATION AND DISCLOSURE OF SOCIOLOGICAL DATA.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES NOT PRECLUDE THE PUBLIC DEFENDER FROM USING MATERIAL IN THE PUBLIC DEFENDER'S FILES THAT IS OTHERWISE PRIVILEGED TO PREPARE AND DISCLOSE STATISTICAL, CASE STUDY, AND OTHER SOCIOLOGICAL DATA.

(2) MATERIAL USED TO PREPARE AND DISCLOSE SOCIOLOGICAL DATA MAY NOT DISCLOSE THE IDENTITY OF A PARTICULAR INDIGENT INDIVIDUAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 8.

In subsection (a) of this section, the reference to an "attorney" is substituted for the former reference to a "counsel" to conform to the terminology used throughout this title.

Also in subsection (a) of this section, the former reference to all communications being "fully" protected is deleted as surplusage.

Also in subsection (a) of this section, the defined term "indigent individual" is substituted for the former reference to "individual defendant" to conform to the terminology used throughout this title. Similarly, in subsection (b)(2) of this section, the defined term "indigent individual" is substituted for the former reference to "defendants".

Also in subsection (a) of this section, the former reference to the same "degree" is deleted in light of the reference to the same "extent".

Defined terms: "Indigent individual" § 16–101
"Office" § 16–101

16–210. ELIGIBILITY FOR SERVICES.

(A) APPLICATION AS INDIGENT INDIVIDUAL.

AN INDIVIDUAL MAY APPLY FOR SERVICES OF THE OFFICE AS AN INDIGENT INDIVIDUAL, IF THE INDIVIDUAL STATES IN WRITING UNDER OATH OR AFFIRMATION THAT THE INDIVIDUAL, WITHOUT UNDUE FINANCIAL HARDSHIP, CANNOT PROVIDE THE FULL PAYMENT OF AN ATTORNEY AND ALL OTHER NECESSARY EXPENSES OF REPRESENTATION IN PROCEEDINGS LISTED UNDER § 16–204(B) OF THIS SUBTITLE.

(B) DETERMINATION OF ELIGIBILITY.

(1) ELIGIBILITY FOR THE SERVICES OF THE OFFICE SHALL BE DETERMINED BY THE NEED OF THE APPLICANT.

(2) NEED SHALL BE MEASURED ACCORDING TO THE FINANCIAL ABILITY OF THE APPLICANT TO ENGAGE AND COMPENSATE A COMPETENT PRIVATE ATTORNEY AND TO PROVIDE ALL OTHER NECESSARY EXPENSES OF REPRESENTATION.

(3) FINANCIAL ABILITY SHALL BE DETERMINED BY:

(I) THE NATURE, EXTENT, AND LIQUIDITY OF ASSETS;

(II) THE DISPOSABLE NET INCOME OF THE APPLICANT;

(III) THE NATURE OF THE OFFENSE;

(IV) THE LENGTH AND COMPLEXITY OF THE PROCEEDINGS;

(V) THE EFFORT AND SKILL REQUIRED TO GATHER PERTINENT INFORMATION; AND

(VI) ANY OTHER FORESEEABLE EXPENSE.

(4) IF ELIGIBILITY CANNOT BE DETERMINED BEFORE THE OFFICE OR A PANEL ATTORNEY BEGINS REPRESENTATION, THE OFFICE MAY REPRESENT AN APPLICANT PROVISIONALLY.

(5) IF THE OFFICE SUBSEQUENTLY DETERMINES THAT AN APPLICANT IS INELIGIBLE:

(I) THE OFFICE SHALL INFORM THE APPLICANT; AND

(II) THE APPLICANT SHALL BE REQUIRED TO ENGAGE THE APPLICANT'S OWN ATTORNEY AND REIMBURSE THE OFFICE FOR THE COST OF THE REPRESENTATION PROVIDED.

(C) INVESTIGATION OF FINANCIAL STATUS.

(1) THE OFFICE SHALL INVESTIGATE THE FINANCIAL STATUS OF AN APPLICANT WHEN THE CIRCUMSTANCES WARRANT.

(2) THE OFFICE MAY:

(I) REQUIRE AN APPLICANT TO EXECUTE AND DELIVER WRITTEN REQUESTS OR AUTHORIZATIONS THAT ARE NECESSARY UNDER LAW TO PROVIDE THE OFFICE WITH ACCESS TO CONFIDENTIAL RECORDS OF PUBLIC OR PRIVATE SOURCES THAT ARE NEEDED TO EVALUATE ELIGIBILITY; AND

(II) ON REQUEST, OBTAIN INFORMATION WITHOUT CHARGE FROM A PUBLIC RECORD OFFICE OR OTHER UNIT OF THE STATE, COUNTY, OR MUNICIPAL CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, §§ 2(f) and 7(a) and (b).

In subsection (a) of this section, former Art. 27A, § 2(f), which defined the term "indigent", is revised as a substantive section for clarity.

Also in subsection (a) of this section, the reference to representation "in proceedings listed under § 16–204(b) of this subtitle" is substituted for the former overly broad reference to representation for an individual who is "taken into custody or charged with a serious crime as herein defined under the laws of the State of Maryland or the laws and ordinances of any county, municipality, or Baltimore City".

In subsection (b)(1), (2), and (5) of this section, the references to an "applicant" are substituted for the former references to a "person" to conform to the terminology used throughout this section. Similarly, the references to an "applicant" are substituted for the former references to a "defendant" in subsections (b)(3)(ii) and (c) of this section and for an "indigent person" in subsection (b)(4) of this section.

In subsection (b)(1) of this section, the former reference to an "applicant seeking legal representation" is deleted as surplusage.

In subsection (b)(2) and (5)(ii) of this section, the references to an "attorney" are substituted for the former references to a "counsel" to conform to the terminology used throughout this title.

In subsection (b)(3) of this section, the reference to the financial ability of a person seeking legal representation to be "determined" by certain factors is substituted for the former reference to financial ability being "recognized to be a variable" of certain factors to conform to the terminology used throughout this subsection.

In subsection (b)(4) of this section, the reference to a "panel attorney" is added for clarity.

In subsection (b)(5)(ii) of this section, the reference to the cost of the "representation provided" is substituted for the former reference to the cost of the "services rendered to that time" for brevity.

In subsection (c)(2) of this section, the former phrase "in connection therewith" is deleted as surplusage.

In subsection (c)(2)(i) of this section, the former reference to "applicable" law is deleted as surplusage.

In subsection (c)(2)(ii) of this section, the reference to a "unit of the State, county, or municipal corporation" is substituted for the former reference to the "State or of any subdivision or agency thereof" to conform to the terminology used in other revised articles.

Also in subsection (c)(2)(ii) of this section, the phrase "without charge" is substituted for the former phrase "without payment of any fees ordinarily required by law" for brevity.

Defined terms: "County" § 1–101
"Indigent individual" § 16–101
"Office" § 16–101
"Panel attorney" § 16–101

16–211. REIMBURSEMENT FOR SERVICES.

(A) IN GENERAL.

(1) IF IT APPEARS THAT AN INDIGENT INDIVIDUAL HAS OR REASONABLY EXPECTS TO HAVE MEANS TO MEET SOME OF THE EXPENSES FOR

SERVICES RENDERED, THE INDIGENT INDIVIDUAL SHALL REIMBURSE THE OFFICE:

(I) BY A SINGLE PAYMENT OR IN INSTALLMENTS; AND

(II) IN THE AMOUNT THAT THE INDIGENT INDIVIDUAL CAN REASONABLY BE EXPECTED TO PAY.

(2) A DEFAULT OR FAILURE BY AN INDIGENT INDIVIDUAL TO MAKE A PAYMENT MAY NOT AFFECT THE RENDERING OF SERVICES TO THE INDIGENT INDIVIDUAL.

(B) DEPARTMENT OF BUDGET AND MANAGEMENT TO SEEK REIMBURSEMENT.

THE CENTRAL COLLECTION UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, ON BEHALF OF THE PUBLIC DEFENDER AND IN THE NAME OF THE STATE, SHALL DO ALL THINGS NECESSARY TO COLLECT ALL REIMBURSEMENT MONEY DUE TO THE STATE FOR SERVICES RENDERED IN ACCORDANCE WITH THIS TITLE.

(C) REIMBURSEMENT IN CRIMINAL CASES.

(1) A COURT EXERCISING CRIMINAL JURISDICTION SHALL ORDER A DEFENDANT TO REIMBURSE THE STATE FOR SERVICES RENDERED TO THE DEFENDANT BY THE PUBLIC DEFENDER AS A TERM OR CONDITION OF A SENTENCE, JUDGMENT, OR PROBATION IMPOSED BY THE COURT, UNLESS THE COURT:

(I) AFFIRMATIVELY FINDS THAT THE DEFENDANT CANNOT MAKE THE REIMBURSEMENT; AND

(II) WAIVES THE TERM OR CONDITION.

(2) THE COURT SHALL ESTABLISH THE AMOUNT, TIME, AND METHOD OF PAYMENT.

(3) IN ALL OTHER CASES OF REIMBURSEMENT FOR SERVICES RENDERED, COLLECTION SHALL BE MADE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(D) REIMBURSEMENT IN CIVIL AND JUVENILE CASES.

(1) A COURT EXERCISING OTHER THAN CRIMINAL JURISDICTION SHALL ORDER AN INDIGENT INDIVIDUAL REPRESENTED BY THE PUBLIC DEFENDER TO REIMBURSE THE STATE FOR THE REASONABLE VALUE OF SERVICES RENDERED TO THE INDIGENT INDIVIDUAL IN AN AMOUNT THAT THE INDIGENT INDIVIDUAL MAY REASONABLY BE ABLE TO PAY.

(2) IF THE INDIGENT INDIVIDUAL IS A MINOR, THE COURT SHALL ORDER THE PARENTS, GUARDIAN, OR CUSTODIAN OF THE MINOR TO REIMBURSE THE STATE FOR THE REASONABLE VALUE OF SERVICES RENDERED IN AN AMOUNT THAT THE PARENTS, GUARDIAN, OR CUSTODIAN MAY REASONABLY BE ABLE TO PAY.

(3) THE COURT SHALL ESTABLISH THE AMOUNT, TIME, AND METHOD OF PAYMENT.

(E) OPPORTUNITY TO BE HEARD.

BEFORE ORDERING REIMBURSEMENT UNDER SUBSECTION (D) OF THIS SECTION, A COURT SHALL GRANT AN OPPORTUNITY TO BE HEARD TO THE INDIGENT INDIVIDUAL OR THE PARENTS, GUARDIAN, OR CUSTODIAN OF A MINOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 7(c), (f), (g), and (h).

In subsection (a)(1) of this section, the defined term "indigent individual" is substituted for the former reference to a "defendant" to reflect that this subsection applies to indigent individuals who are involved in juvenile or family court proceedings as well as in criminal proceedings.

In subsection (a)(2) of this section, the former reference to "reduce" the rendering of services is deleted as included in the reference to "affect" the rendering of services.

In subsection (b) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsections (d) and (e) of this section, the references to the defined term "indigent individual" are substituted for the former references to "individual" to conform to the terminology used throughout this title.

Defined terms: "Indigent individual" § 16–101
"Office" § 16–101

16–212. LIENS.

(A) REASONABLE VALUE OF SERVICES.

THE REASONABLE VALUE OF THE SERVICES RENDERED TO AN INDIGENT INDIVIDUAL IN ACCORDANCE WITH THIS TITLE IS A LIEN ON REAL OR PERSONAL PROPERTY IN WHICH THE INDIGENT INDIVIDUAL HAS OR ACQUIRES AN INTEREST, EXCEPT FOR THE RESIDENCE OF THE INDIGENT INDIVIDUAL.

(B) PERFECTION OF LIEN.

TO PERFECT THE LIEN, THE PUBLIC DEFENDER SHALL SUBMIT TO THE COURT HAVING JURISDICTION IN THE MATTER AN AFFIDAVIT SETTING FORTH THE SERVICES RENDERED TO THE INDIGENT INDIVIDUAL AND THEIR REASONABLE VALUE.

(C) HEARING.

(1) THE COURT SHALL SET A HEARING DATE AND SHALL NOTIFY THE INDIGENT INDIVIDUAL OF THE DATE AND THE FACT THAT THE PUBLIC DEFENDER FILED AN AFFIDAVIT TO PERFECT THE LIEN.

(2) THE INDIGENT INDIVIDUAL MAY:

(I) APPEAR;

(II) BE REPRESENTED BY AN ATTORNEY;

(III) PRESENT EVIDENCE; AND

(IV) EXAMINE WITNESSES.

(3) THE INDIGENT INDIVIDUAL MAY CONTEST THE AFFIDAVIT.

(4) IF THE COURT DETERMINES THAT THE PUBLIC DEFENDER IS NOT ENTITLED TO A LIEN, THE PROCEEDING SHALL BE DISMISSED.

(5) IF THE COURT DETERMINES THAT THE PUBLIC DEFENDER IS ENTITLED TO A LIEN, THE COURT SHALL DETERMINE THE REASONABLE VALUE OF THE SERVICES RENDERED TO THE INDIGENT INDIVIDUAL.

(D) RECORDING OF LIENS.

(1) ON ADJUDICATION, A LIEN SHALL BE FILED OR DOCKETED WITH THE CLERK OF THE CIRCUIT COURT OR DISTRICT COURT WHERE THE SERVICES WERE PERFORMED OR WHERE THE INDIGENT INDIVIDUAL WORKS OR RESIDES.

(2) THE LIEN SHALL:

(I) CONSTITUTE A LIEN ON THE INDIGENT INDIVIDUAL'S PROPERTY FOR 10 YEARS FROM THE DATE OF FILING OR DOCKETING UNLESS THE LIEN IS DISCHARGED SOONER; AND

(II) HAVE THE FORCE AND EFFECT OF A JUDGMENT AT LAW.

(3) (I) THE CLERKS OF THE CIRCUIT COURTS AND THE DISTRICT COURT SHALL PROVIDE SEPARATE BOOKS TO RECORD LIENS UNDER THIS SECTION.

(II) THE BOOKS SHALL BE PROPERLY INDEXED IN THE NAME OF THE DEBTOR.

(III) THE PUBLIC DEFENDER MAY NOT BE REQUIRED TO PAY FILING OR RECORDING FEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 7(d) and (e).

Throughout this section, the defined term "indigent individual" is substituted for the former reference to a "defendant" to reflect that these subsections apply to indigent individuals who are involved in juvenile or family court proceedings as well as in criminal proceedings.

In subsection (a) of this section, the reference to "real or personal property" is substituted for the former reference to "any and all real property or personal" for brevity.

In subsection (c)(2)(ii) of this section, the reference to an "attorney" is substituted for the former reference to a "counsel" to conform to the terminology used throughout this title.

In subsection (c)(5) of this section, the former reference to "adjudge" is deleted in light of the reference to "determine".

In subsection (d) of this section, the former reference to circuit courts and the District Court "throughout the State" is deleted as surplusage.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (d) of this section, it is unclear when the 10–year period during which a lien on the defendant's property begins. The provision states "from the date of filing or docketing", but filing and docketing may occur on different dates.

Defined term: "Indigent individual" § 16–101

16–213. EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT PROHIBIT THE APPOINTMENT OF AN ATTORNEY TO REPRESENT AN INDIGENT INDIVIDUAL BY THE DISTRICT COURT, A CIRCUIT COURT, OR THE COURT OF SPECIAL APPEALS IF:

(1) THERE IS A CONFLICT IN LEGAL REPRESENTATION IN A MATTER INVOLVING MULTIPLE DEFENDANTS, AND ONE OF THE DEFENDANTS IS REPRESENTED BY OR THROUGH THE OFFICE; OR

(2) THE OFFICE DECLINES TO PROVIDE REPRESENTATION TO AN INDIGENT INDIVIDUAL ENTITLED TO REPRESENTATION UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 6(f).

In the introductory language of this section, the reference to "the District Court, a circuit court, or the Court of Special Appeals" is substituted for the former reference to "any court mentioned in § 4(b)(2) of this article" for clarity.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in the list of courts specified in the introductory language of this section, the Court of Appeals is not mentioned.

Defined terms: "Indigent individual" § 16–101
"Office" § 16–101

SUBTITLE 3. BOARD OF TRUSTEES; REGIONAL ADVISORY BOARDS.

16–301. BOARD OF TRUSTEES.

(A) ESTABLISHED.

THERE IS A BOARD OF TRUSTEES OF THE OFFICE OF THE PUBLIC DEFENDER.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

THE BOARD OF TRUSTEES CONSISTS OF THREE MEMBERS APPOINTED BY THE GOVERNOR.

(C) QUALIFICATIONS OF MEMBERS.

(1) EACH MEMBER OF THE BOARD OF TRUSTEES SHALL BE A RESIDENT OF THE STATE.

(2) TWO MEMBERS OF THE BOARD OF TRUSTEES SHALL BE ACTIVE ATTORNEYS ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS OF MARYLAND.

(D) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF THE BOARD OF TRUSTEES IS 3 YEARS.

(2) A VACANCY OCCURRING ON THE BOARD OF TRUSTEES DURING THE TERM OF A MEMBER SHALL BE FILLED BY THE GOVERNOR FOR THE REMAINDER OF THE UNEXPIRED TERM.

(E) CHAIR.

(1) THE BOARD OF TRUSTEES ANNUALLY SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(2) THE CHAIR SHALL PRESIDE OVER AND REPRESENT THE INTERESTS OF THE BOARD OF TRUSTEES IN CARRYING OUT THIS TITLE.

(F) QUORUM.

TWO MEMBERS OF THE BOARD OF TRUSTEES ARE A QUORUM.

(G) MEETINGS.

(1) THE BOARD OF TRUSTEES SHALL HOLD AT LEAST ONE REGULAR ANNUAL MEETING AT A TIME AND PLACE THAT THE CHAIR DESIGNATES.

(2) ADDITIONAL MEETINGS SHALL BE HELD AS NECESSARY AND MAY BE CALLED ON NOTICE BY THE CHAIR OR AT THE REQUEST OF AT LEAST TWO MEMBERS OF THE BOARD OF TRUSTEES.

(H) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD OF TRUSTEES:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE BOARD OF TRUSTEES; BUT

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 9(a), (b), and (d).

In subsection (a) of this section, the reference to the Board of Trustees "of the Office of the Public Defender" is added to state explicitly what was implied in the former law.

In subsections (e)(1) and (g) of this section, the references to "chair" are substituted for the former references to "chairman" because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (f) of this section, the former reference to a quorum "for all business" is deleted as surplusage.

In subsection (h)(2) of this section, the reference to reimbursement "for expenses under the Standard State Travel Regulations, as provided in the State budget" is substituted for the former reference "for necessary expenses, including travel, actually incurred in the performance of their duties" to conform to the terminology used in this and other revised articles.

Defined term: "Board of Trustees" § 16–101

16–302. DUTIES OF BOARD OF TRUSTEES.

THE BOARD OF TRUSTEES SHALL:

(1) STUDY AND OBSERVE THE OPERATION OF THE OFFICE;

(2) COORDINATE THE ACTIVITIES OF THE REGIONAL ADVISORY BOARDS; AND

(3) ADVISE THE PUBLIC DEFENDER ON PANELS OF ATTORNEYS, FEES, AND OTHER MATTERS ABOUT THE OPERATION OF THE PUBLIC DEFENDER SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 9(c).

In item (2) of this section, the defined term "regional advisory board[s]" is substituted for the former erroneous reference to "district advisory boards".

Defined terms: "Board of Trustees" § 16–101
"Office" § 16–101
"Regional advisory board" § 16–101

16–303. REGIONAL ADVISORY BOARDS.

(A) ESTABLISHED.

THERE ARE FOUR REGIONAL ADVISORY BOARDS OF THE OFFICE.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

EACH REGIONAL ADVISORY BOARD CONSISTS OF FIVE MEMBERS APPOINTED BY THE GOVERNOR.

(C) DISTRICTS.

OF THE FOUR REGIONAL ADVISORY BOARDS:

(1) THE FIRST SHALL ADVISE PUBLIC DEFENDER DISTRICTS ONE, EIGHT, AND NINE, WHICH ENCOMPASS BALTIMORE CITY, BALTIMORE COUNTY, AND HARFORD COUNTY;

(2) THE SECOND SHALL ADVISE PUBLIC DEFENDER DISTRICTS TWO AND THREE, WHICH ENCOMPASS CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY;

(3) THE THIRD SHALL ADVISE PUBLIC DEFENDER DISTRICTS FOUR, FIVE, AND SEVEN, WHICH ENCOMPASS ANNE ARUNDEL COUNTY, CALVERT COUNTY, CHARLES COUNTY, PRINCE GEORGE'S COUNTY, AND ST. MARY'S COUNTY; AND

(4) THE FOURTH SHALL ADVISE PUBLIC DEFENDER DISTRICTS SIX, TEN, ELEVEN, AND TWELVE, WHICH ENCOMPASS ALLEGANY COUNTY, CARROLL COUNTY, FREDERICK COUNTY, GARRETT COUNTY, HOWARD COUNTY, MONTGOMERY COUNTY, AND WASHINGTON COUNTY.

(D) QUALIFICATION OF MEMBERS.

EACH MEMBER OF A REGIONAL ADVISORY BOARD SHALL BE:

(1) A RESIDENT OF A DISTRICT REPRESENTED BY THAT REGIONAL ADVISORY BOARD; AND

(2) (I) A JUDGE OF A CIRCUIT COURT;

(II) A JUDGE OF THE DISTRICT COURT; OR

(III) AN ACTIVE ATTORNEY ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS OF MARYLAND.

(E) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF A REGIONAL ADVISORY BOARD IS 3 YEARS.

(2) A VACANCY OCCURRING ON A REGIONAL ADVISORY BOARD DURING THE TERM OF A MEMBER SHALL BE FILLED BY THE GOVERNOR FOR THE REMAINDER OF THE UNEXPIRED TERM.

(F) CHAIR.

(1) THE GOVERNOR SHALL ANNUALLY DESIGNATE A CHAIR OF EACH REGIONAL ADVISORY BOARD FROM AMONG THE MEMBERS OF THAT REGIONAL ADVISORY BOARD.

(2) THE CHAIR SHALL PRESIDE OVER AND REPRESENT THE INTERESTS OF THAT REGIONAL ADVISORY BOARD IN CARRYING OUT THIS TITLE.

(G) QUORUM.

THREE MEMBERS OF A REGIONAL ADVISORY BOARD ARE A QUORUM.

(H) MEETINGS.

(1) EACH REGIONAL ADVISORY BOARD SHALL HOLD AT LEAST ONE REGULAR ANNUAL MEETING AT A TIME AND PLACE THAT THE CHAIR DESIGNATES.

(2) ADDITIONAL MEETINGS MAY BE CALLED:

(I) ON NOTICE BY THE CHAIR;

(II) ON NOTICE BY THE PUBLIC DEFENDER;

(III) ON NOTICE BY THE DISTRICT PUBLIC DEFENDER FROM A DISTRICT REPRESENTED BY THAT REGIONAL ADVISORY BOARD; OR

(IV) AT THE REQUEST OF AT LEAST THREE MEMBERS OF THE REGIONAL ADVISORY BOARD.

(I) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF A REGIONAL ADVISORY BOARD:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE REGIONAL ADVISORY BOARD; BUT

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 10(b), (c), and (e).

In subsection (a) of this section, the reference to regional advisory boards "of the Office" is added to state explicitly what was only implied in the former law.

In subsection (f)(1) and (2) of this section, the references to "chair" are substituted for the former references to "chairman" because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (g) of this section, the former phrase "for all business" is deleted as surplusage.

In subsection (i)(2) of this section, the reference to reimbursement "for expenses under the Standard State Travel Regulations, as provided in the State budget" is substituted for the former reference to reimbursement "for necessary expenses, including travel, actually incurred in the performance of their duties" to conform to the terminology used in this and other revised articles.

Defined terms: "District" § 16–101
"Office" § 16–101
"Regional advisory board" § 16–101

16–304. DUTIES OF REGIONAL ADVISORY BOARDS.

EACH REGIONAL ADVISORY BOARD SHALL:

(1) STUDY AND OBSERVE THE OPERATION OF DISTRICT PUBLIC DEFENDER OFFICES; AND

(2) ADVISE THE PUBLIC DEFENDER AND DISTRICT PUBLIC DEFENDERS ON PANELS OF ATTORNEYS, FEES, AND OTHER MATTERS ABOUT THE OPERATION OF DISTRICT PUBLIC DEFENDER OFFICES AND THE PUBLIC DEFENDER SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 10(d).

Defined terms: "District" § 16–101
"Regional advisory board" § 16–101

SUBTITLE 4. REPORT; APPROPRIATIONS; SEVERABILITY.

16–401. ANNUAL REPORT OF PUBLIC DEFENDER.

(A) RECIPIENTS.

ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE PUBLIC DEFENDER SHALL SUBMIT A REPORT TO:

(1) THE BOARD OF TRUSTEES;

(2) THE GOVERNOR; AND

(3) IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENT.

THE REPORT SHALL INCLUDE:

(1) PERTINENT DATA ABOUT THE OPERATIONS OF THE OFFICE, INCLUDING PROJECTED NEEDS, A BREAKDOWN OF THE NUMBER AND TYPE OF CASES HANDLED, AND RELATIVE DISPOSITIONS; AND

(2) RECOMMENDATIONS FOR STATUTORY CHANGES, INCLUDING CHANGES IN THE CRIMINAL LAW OR MARYLAND RULES TO CONTROL CRIME AND IMPROVE THE CRIMINAL JUSTICE SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 11.

In subsection (b)(2) of this section, the former reference to changes "as may be appropriate or necessary" is deleted as surplusage.

Defined terms: "Board of Trustees" § 16–101
"Office" § 16–101

16–402. APPROPRIATIONS.

FUNDS FOR CARRYING OUT THIS TITLE SHALL BE AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 13.

The former reference to "provisions of" this title and the former phrase "from time to time" are deleted as surplusage.

16–403. SEVERABILITY.

(A) SEVERABILITY.

THE PROVISIONS OF THIS TITLE ARE SEVERABLE.

(B) EFFECT ON OTHER PROVISIONS.

THE INVALIDITY OF A PROVISION OF THIS TITLE DOES NOT AFFECT OTHER PROVISIONS THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27A, § 12.

In subsection (b) of this section, the former references to "unconstitutional" and "unconstitutionality" are deleted as implicit within the terms "invalid" and "invalidity".

Also in subsection (b) of this section, the former phrases "sentence[s], clause[s], section[s], or part[s]" are deleted as implicit within the term "provision[s]".

Also in subsection (b) of this section, the former phrase "or their application to other persons or circumstances" is deleted as surplusage.

Also in subsection (b) of this section, the former reference to "impair" the provisions is deleted as included in the reference to "affect" the provisions.

The second sentence of former Art. 27A, § 12, which declared that the legislative intent of this title would have been adopted if the invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, is deleted as duplicative of this section.

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 27A, § 14, which provided for local exemptions to the provisions of Article 27A, is deleted as obsolete. The Public Defender provides services in all counties within the State, and no county implemented or maintained a separate or different system before September 1, 1971.

GENERAL REVISOR'S NOTE TO TITLES 14, 15, AND 16:

This revision contains three revised titles of the Criminal Procedure Article.

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of code revision has been that, once something is said, it should be said in the same way every time. To that end, the Criminal Procedure Article Additions Review Committee conformed the language and organization of Titles 14, 15, and 16 to that of the rest of the Criminal Procedure Article and other previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Criminal Procedure Article Additions Review Committee that this bulk revision of the substantive laws regarding the Office of the State Prosecutor, the Office of the State's Attorney, and the Office of the Public Defender render no substantive change. The guiding principle of the preparation of Titles 14, 15, and 16 of the Criminal Procedure Article is that state in *Welch v. Humphrey,* 200 Md. 410, 417 (1952):

> [T]he principle function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted).

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of these Titles 14, 15, and 16 in no way is intended to make any change to the substantive law of Maryland relating to the Office of the State Prosecutor, the Office of the State's Attorney, or the Office of the Public Defender.

Throughout Titles 15 and 16, as in other revised articles, the word "regulations" generally is substituted for the former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This substitution conforms to the practice of the Division of State Documents.

In many provisions in these titles, as in other revised articles, the word "unit" is substituted for former references to governmental entities such as an "agency", "board", or "commission". In revised articles of the Code, the word "unit" is used as the general term for an organization in government because it is broad enough to include all such entities.

References to current units and positions are substituted for obsolete references to entities and positions that have been abolished or have otherwise ceased to exist.

Also throughout these titles, references to the "chair" of a committee or other unit are substituted for former references to "chairman" in accordance with the style manual of the Office of Policy Analysis of the Department of Legislative Services. SG § 2–1238(11) requires the Office of Policy Analysis to include in the style manual "a drafting rule that requires, to the extent practicable, the use of words that are neutral as to gender except for a subject matter that specifically applies only to one gender and except for a name or organizational title".

In some instances, the staff of the Department of Legislative Services may create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted during the 2008 Session on some provisions of these titles.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 4. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office,

department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 7. AND BE IT FURTHER ENACTED, That the continuity of every commission, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 9. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 10. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2008 that affects provisions

enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 16

(Senate Bill 57)

AN ACT concerning

Child Welfare – Permanency Planning and Interstate Placement of Foster Children

FOR the purpose of altering the factors a juvenile court is required to consider in making certain findings in certain hearings; altering the number of days' notice a local department of social services is required to give to certain persons before certain hearings; specifying the contents of the notice; requiring the notice to be in writing, unless waived for good cause; clarifying that certain persons have the right to be heard at certain hearings; requiring the court to consult with a child in a certain manner at certain hearings; requiring a local department to consider certain placements for certain children; correcting an obsolete reference; and generally relating to children in out–of–home placement.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–816.1(c)(3) and 3–823(i) and (j)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–823(k)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law

Section 5–525(d) and (e)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 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

3–816.1.

(c) In making its findings in accordance with subsection (b) of this section, the court shall consider:

(3) For a hearing under § 3–823 of this subtitle, whether a local department has provided appropriate services that facilitate the achievement of a permanency plan for the child**, INCLUDING CONSIDERATION OF IN–STATE AND OUT–OF–STATE PLACEMENT OPTIONS**;

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 **[**7**]** **10** days' notice **[**before any hearing conducted under this section**]** 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 **[**an opportunity**]** **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 **[**opportunity**]** **THE RIGHT** to be heard provided under this subsection.

(j) At a review hearing under this section, the court shall consider any written report of a local out–of–home **[**placement**]** **CARE** review board required under § 5–545 of the Family Law Article.

(K) 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.

Article – Family Law

5–525.

(d) (1) Unless a court orders that reasonable efforts are not required under § 3–812 of the Courts Article or § 5–323 of this title, reasonable efforts shall be made to preserve and reunify families:

(i) prior to the placement of a child in an out–of–home placement, to prevent or eliminate the need for removing the child from the child's home; and

(ii) to make it possible for a child to safely return to the child's home.

(2) In determining the reasonable efforts to be made and in making the reasonable efforts described under paragraph (1) of this subsection, the child's safety and health shall be the primary concern.

(3) Reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with the reasonable efforts described under paragraph (1) of this subsection.

(4) If continuation of reasonable efforts to reunify the child with the child's parents or guardian is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan**, INCLUDING CONSIDERATION OF BOTH IN–STATE AND OUT–OF–STATE PLACEMENTS,** and to complete the steps to finalize the permanent placement of the child.

(e) (1) In developing a permanency plan for a child in an out–of–home placement, the local department shall give primary consideration to the best interests of the child**, INCLUDING CONSIDERATION OF BOTH IN–STATE AND OUT–OF–STATE PLACEMENTS**. The local department shall consider the following factors in determining the permanency plan that is in the best interests of the child:

(i) the child's ability to be safe and healthy in the home of the child's parent;

(ii) the child's attachment and emotional ties to the child's natural parents and siblings;

(iii) the child's emotional attachment to the child's current caregiver and the caregiver's family;

(iv) the length of time the child has resided with the current caregiver;

(v) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and

(vi) the potential harm to the child by remaining in State custody for an excessive period of time.

(2) To the extent consistent with the best interests of the child in an out–of–home placement, the local department shall consider the following permanency plans, in descending order of priority:

(i) returning the child to the child's parent or guardian, unless the local department is the guardian;

(ii) placing the child with relatives to whom adoption, custody and guardianship, or care and custody, in descending order of priority, are planned to be granted;

(iii) adoption in the following descending order of priority:

1. by a current foster parent with whom the child has resided continually for at least the 12 months prior to developing the permanency plan or for a sufficient length of time to have established positive relationships and family ties; or

2. by another approved adoptive family; or

(iv) another planned permanent living arrangement that:

1. addresses the individualized needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs; and

2. includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life.

(3) Subject to paragraphs (1) and (2) of this subsection and to the extent consistent with the best interests of a child in an out–of–home placement, in determining a permanency plan, the local department shall consider the following in descending order of priority:

(i) placement of the child in the local jurisdiction where the child's parent or guardian resides; or

(ii) if the local department finds, based on a compelling reason, that placement of the child as described in item (i) of this paragraph is not in the best interest of the child, placement of the child in another jurisdiction in the State after considering:

1. the availability of resources to provide necessary services to the child;

2. the accessibility to family treatment, if appropriate; and

3. the effect on the local school system.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 17

(Senate Bill 104)

AN ACT concerning

Working Waterfront Commission – Reporting and Sunset Extension

FOR the purpose of altering the date by which the Working Waterfront Commission must make a certain report; altering the termination date of the Commission; and generally relating to the Working Waterfront Commission.

BY repealing and reenacting, with amendments,
Chapter 30 of the Acts of the General Assembly of 2007
Section 1 and 2

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

Chapter 30 of the Acts of 2007

SECTION 1. AND BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Working Waterfront Commission.

(b) The Commission consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Natural Resources, or the Secretary's designee;

(4) the Secretary of Planning, or the Secretary's designee;

(5) the Secretary of Business and Economic Development, or the Secretary's designee;

(6) the Executive Director of the Maryland Association of Counties, or the Executive Director's designee;

(7) the Executive Director of the Maryland Municipal League, or the Executive Director's designee;

(8) the Executive Director of the Maryland Agricultural and Resource–Based Industry Development Corporation, or the Executive Director's designee;

(9) the Executive Director of the Coastal Bays Association, or the Executive Director's designee;

(10) the President of the Chesapeake Bay Seafood Industries Association, or the President's designee;

(11) the Director of the Sea Grant Program, or the Director's designee;

(12) the President of the Maryland Waterman's Association and a member of the Maryland Waterman's Association appointed by the President of the Association;

(13) the Executive Director of the Maryland Saltwater Sportfishermen's Association, or the Executive Director's designee; and

(14) three watermen appointed by the Governor representing:

(i) the coastal bay;

(ii) the lower bay; and

(iii) the upper bay.

(c) The Governor shall designate the chair of the Commission.

(d) The Department of Natural Resources and the Department of Legislative Services shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Commission shall study and make recommendations regarding protecting and preserving Maryland's commercial fishing industry's access to public trust waters.

(g) On or before **[**December 15, 2007**]** **DECEMBER 1, 2008**, the Commission shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007. It shall remain effective for a period of 1 year **AND 7 MONTHS** and, at the end of **[**May**]** **DECEMBER** 31, 2008, 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 18

(Senate Bill 144)

AN ACT concerning

State Board of Cosmetologists – Makeup Artist Services

FOR the purpose of repealing provisions relating to the licensure and regulation of makeup artist services by the State Board of Cosmetologists; and generally relating to the State Board of Cosmetologists.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 5–101(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 5–101(g), (j), (k)(1)(iv), (v), and (vi), (m), and (n), 5–205(b)(4), 5–301(b), 5–305, 5–306, 5–310, 5–313, and 5–501
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Business Occupations and Professions

5–101.

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

(g) (1) "License" means, unless the context requires otherwise, a license issued by the Board.

(2) "License" includes, unless the context requires otherwise, each of the following licenses:

(i) a license to practice cosmetology;

(ii) a license to practice as a senior cosmetologist;

(iii) **[**a limited license to provide makeup artist services;

(iv)**]** a limited license to provide esthetic services; and

[(v)**](IV)** a limited license to provide nail technician services.

(j) (1) "Limited license" means a license issued by the Board to practice cosmetology as limited in § 5–301 of this title.

(2) "Limited license" includes, unless the context requires otherwise, each of the following licenses:

(i) **[**a limited license to provide makeup artist services;

(ii)**]** a limited license to provide esthetic services; and

[(iii)**](II)** a limited license to provide nail technician services.

(k) (1) "Practice cosmetology" means to engage in any of the following for compensation:

(iv) **[**providing makeup artist services;

(v)**]** providing esthetic services; or

[(vi)**](V)** providing nail technician services.

(m) **[**"Provide makeup artist services" means to apply creams, lotions, cosmetic preparations, and cleansing solutions to an individual's face for compensation.

(n)**]** "Provide nail technician services" means to provide to an individual, for compensation, the service of:

(1) manicuring or pedicuring the individual's nails;

(2) applying artificial nail enhancement products; or

(3) maintaining artificial nail enhancement products.

5–205.

(b) (4) The Board shall require a $25 fee for the licensure or renewal of licensure of cosmetologists, senior cosmetologists, estheticians, **AND** nail technicians**[**, and makeup artists**]**.

5–301.

(b) If an individual holds the appropriate limited license, the individual may practice cosmetology in a manner limited to:

(1) **[**providing makeup artist services;

(2)**]** providing esthetic services; or

[(3)**](2)** providing nail technician services.

5–305.

(a) To qualify for a limited license to practice cosmetology, an applicant shall be an individual who meets the requirements of this section.

(b) **[**An applicant for a limited license to provide makeup artist services shall:

(1) be at least 17 years old;

(2) have successfully completed a 9th grade education or the equivalent; and

(3) have successfully completed a course or program in makeup artist services approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board.

(c)**]** An applicant for a limited license to provide esthetic services shall:

(1) be at least 17 years old;

(2) have completed successfully a 9th grade education or the equivalent; and

(3) have received training by:

(i) serving as a registered apprentice for at least 6 months as provided under §§ 5–404 and 5–405 of this title; or

(ii) successfully completing at least 600 hours of instruction in providing esthetic services in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board.

[(d)**](C)** An applicant for a limited license to provide nail technician services shall:

(1) be at least 17 years old;

(2) have successfully completed a 9th grade education or the equivalent; and

(3) have received training by:

(i) serving as a registered apprentice for at least 3 months as provided under §§ 5–404 and 5–405 of this title; or

(ii) successfully completing at least 250 hours of instruction in providing nail technician services in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board.

[(e)**](D)** If an applicant is licensed to practice as **[**a makeup artist, esthetician,**]** **AN ESTHETICIAN** or nail technician in another state or foreign country, the applicant meets the training requirements of this section if the applicant has held a limited license in the other state or foreign country and has actively practiced in the other state or foreign country for a period of 6 months.

[(f)**](E)** **[**Except for an applicant for a limited license to provide makeup artist services, an**]** **AN** applicant for a limited license shall pass an examination given by the Board under this subtitle.

5–306.

[(a)**]** An applicant for a license:

(1) shall submit to the Board an application on the form that the Board provides; and

(2) except as provided in § 5–308 of this subtitle, shall pay to the Board or the Board's designee the appropriate examination fee established by the Board in accordance with § 5–205 of this title in an amount not to exceed the cost of the required examination.

[(b) In addition to the other requirements of this section, an applicant for a license to provide makeup artist services shall submit to the Board credentials that certify sufficient training.**]**

5–310.

(a) Subject to subsections (b) through (d) of this section and while a license to practice cosmetology is in effect, it authorizes the licensee to practice cosmetology.

(b) **[**While a limited license to provide makeup artist services is in effect, it authorizes the licensee to provide only makeup artist services.

(c)**]** While a limited license to provide esthetic services is in effect, it authorizes the licensee to provide only esthetic services.

[(d)**](C)** While a limited license to provide nail technician services is in effect, it authorizes the licensee to provide only nail technician services.

5–313.

[(a) Except as provided in subsection (b) of this section, each**]** **EACH** license issued under this subtitle shall be displayed conspicuously by the licensee in the office or place of employment of the licensee.

[(b) During hours of employment, the holder of a limited license to provide makeup artist services:

(1) shall carry the limited license; and

(2) on request, shall show the limited license.**]**

5–501.

(a) A person shall hold a beauty salon permit issued by the Board before the person may operate a beauty salon in the State.

(b) A beauty salon may operate as a limited practice beauty salon by offering cosmetology services limited to:

(1) **[**providing makeup artist services;

(2)**]** providing esthetic services; or

[(3)**](2)** providing nail technician services.

(c) A separate beauty salon permit is required for each beauty salon that a person operates.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 19

(Senate Bill 147)

AN ACT concerning

State Archives – Records and Other Services – Fees

FOR the purpose of authorizing the State Archivist to establish certain fees for certain purposes; providing that certain fees may be in certain forms; requiring a certain percentage of fees collected to be deposited into a certain fund; requiring the Comptroller to credit certain money to a certain fund; authorizing the Hall of Records Commission to use certain fees to create a certain Endowment Account under certain circumstances; and generally relating to fees established by the State Archivist.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1007 and 9–1013
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – State Government

9–1007.

(a) In addition to any powers set forth elsewhere, the State Archivist may:

(1) adopt regulations to:

(i) govern the Archives;

(ii) manage the Hall of Records Building and other real and personal property that the Archives acquires;

(iii) manage the records under the supervision of the Archives; and

(iv) define the categories of records in the report of the Records Management Division under § 10–634 of this article; and

(2) have a seal.

(B) (1) THE STATE ARCHIVIST MAY ESTABLISH REASONABLE FEES FOR THE CARE AND PRESERVATION OF RECORDS AND OTHER SERVICES PROVIDED BY THE ARCHIVES.

(2) FEES MAY BE IN THE FORM OF:

(I) A PERCENTAGE NOT TO EXCEED 2% OF AN EXISTING FEE CHARGED AT THE TIME OF THE CREATION OF A RECORD IN ANY FORM OR FORMAT; OR

(II) A FLAT RATE SUBSCRIPTION CHARGE FOR A PUBLICATION OF THE ARCHIVES.

(3) OF THE FEES COLLECTED, 7% SHALL BE DEPOSITED IN THE ARCHIVES ENDOWMENT ACCOUNT OF THE STATE ARCHIVES FUND ESTABLISHED UNDER § 9–1013 OF THIS SUBTITLE AS AN EDUCATIONAL AND ENTREPRENEURIAL RESERVE.

[(b)**] (C)** The State Archivist shall submit to the Governor and, subject to § 2–1246 of this article, to the General Assembly an annual report on the activities of the Archives and the Commission during the preceding fiscal year.

9–1013.

(a) There is a State Archives Fund.

(b) The Comptroller shall credit to the State Archives Fund any money that:

(1) is appropriated or given to the Archives for publication of the series known as "The Archives of Maryland";

(2) is received from the sale of the series; **[**or**]**

(3) is received from public grants and private contributions**; OR**

(4) IS RECEIVED FROM FEES COLLECTED IN ACCORDANCE WITH § 9–1007(B) OF THIS SUBTITLE.

(c) (1) The Commission may utilize the proceeds of public grants**, [**and**]** private contributions**, AND FEES COLLECTED UNDER § 9–1007(B)(3) OF THIS SUBTITLE** to create an Archives Endowment Account within the State Archives Fund, if this use is consistent with the terms of the public grants and private contributions.

(2) If an endowment is created, the principal of the endowment may not be expended, except pursuant to a recommendation of the Commission.

(d) (1) The Archives shall use money received by the State Archives Fund for "The Archives of Maryland" to prepare, edit, and publish volumes of the series, including reprints of unavailable volumes.

(2) The Archives may use other money in the Fund for the general dissemination of archival materials. This includes the preparation and distribution of books and other publications using archival materials.

(3) Earnings from the endowment may be used for research on Maryland citizens who achieve national, State, or local prominence, for research on historical and geographical aspects of Maryland, and for an outreach program into the schools.

(e) The Treasurer shall invest money from the State Archives Fund, including money in the Archives Endowment Account, for the use of the Fund, and all earnings shall be credited to the Fund.

(f) Expenditures from the Fund, including earnings from the Archives Endowment Account, shall be made pursuant to an appropriation approved by the

General Assembly in the annual State budget or by the budget amendment procedure provided for in § 7–209 of the State Finance and Procurement Article.

(g) The Fund is a continuing, nonlapsing fund which is not subject to § 7–302 of the State Finance and Procurement Article.

(h) The Fund and the Endowment Account are subject to audit by the Legislative Auditor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 20

(Senate Bill 177)

AN ACT concerning

State Personnel – Accrual and Carryover of Annual Leave

FOR the purpose of altering the maximum number of days and hours of annual leave that State employees may accumulate and carry over from 1 calendar year to the next calendar year; and generally relating to the accrual of annual leave by State employees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 9–304 and 9–305
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

9–304.

(a) (1) An employee may accumulate unused annual leave and may carry over from 1 year to the next year up to **[**50**] 75** days or **[**400**] 600** hours of that unused annual leave.

(2) Any accumulated and unused annual leave in excess of **[**50**] 75** days or **[**400**] 600** hours shall be forfeited at the beginning of the first full pay period of the next calendar year.

(b) (1) If an employee is denied the opportunity in 1 calendar year to use annual leave days in excess of the **[**50**] 75** days or **[**400**] 600** hours allowed to be carried over to the next year, the head of the employee's principal unit may allow the employee compensation, at the employee's regular rate of pay, for those excess leave days.

(2) The head of a principal unit may approve a request for compensation under this subsection only if:

(i) the appointing authority documents the unusual administrative reasons for having denied the employee the use of annual leave; and

(ii) funds are available for that purpose.

9–305.

(a) Except for employees covered by a collective bargaining agreement and except as provided in § 9–306 of this subtitle, an employee is entitled, on termination of State employment, to compensation for unused annual leave.

(b) The amount of compensation to be paid under this section shall equal one–tenth of the employee's established biweekly compensation at the time of termination of State employment, multiplied by:

(1) the number of days of annual leave, not exceeding 50 days or 400 hours **OF THE TOTAL** that were accrued at the end of the previous calendar year and that remain unused; and

(2) the number of days of annual leave that accrued during the calendar year in which the employee's State employment terminates and that remain unused.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 21

(Senate Bill 178)

AN ACT concerning

Public Safety – Emergency Number Systems Board – Membership

FOR the purpose of increasing the membership of the Emergency Number Systems Board to include a representative of geographical information systems in the State and an additional representative of emergency management services; and generally relating to the Emergency Number Systems Board.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–305
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Public Safety

1–305.

(a) There is an Emergency Number Systems Board in the Department of Public Safety and Correctional Services.

(b) (1) The Board consists of **[**15**]** **17** members.

(2) Of the **[**15**]** **17** members:

(i) one member shall represent a telephone company operating in the State;

(ii) one member shall represent the wireless telephone industry in the State;

(iii) one member shall represent the Maryland Institute for Emergency Medical Services Systems;

(iv) one member shall represent the Department of State Police;

(v) one member shall represent the Public Service Commission;

(vi) one member shall represent the Association of Public–Safety Communications Officials International, Inc.;

(vii) two members shall represent county fire services in the State, with one member representing career fire services and one member representing volunteer fire services;

(viii) one member shall represent police services in the State;

(ix) **[**one member**]** **TWO MEMBERS** shall represent emergency management services in the State;

(x) one member shall represent a county with a population of 200,000 or more;

(xi) one member shall represent a county with a population of less than 200,000;

(xii) one member shall represent the Maryland chapter of the National Emergency Numbers Association; **[**and**]**

(XIII) ONE MEMBER SHALL REPRESENT THE GEOGRAPHICAL INFORMATION SYSTEMS IN THE STATE; AND

[(xiii)**] (XIV)** two members shall represent the public.

(3) The Governor shall appoint the members with the advice and consent of the Senate.

(c) (1) The term of a member is 4 years and begins on July 1.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) If a vacancy occurs after a term has begun, the Governor shall appoint a successor to represent the organization or group in which the vacancy occurs.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(d) The Governor shall appoint a chairperson from among the Board members.

(e) The Board shall meet as necessary, but at least once each quarter.

(f) A member of the Board:

(1) may not receive compensation as a member of the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Secretary shall provide staff to the Board, including:

(1) a coordinator who is responsible for the daily operation of the office of the Board; and

(2) staff to handle the increased duties related to wireless enhanced 9–1–1 service.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 22

(Senate Bill 179)

AN ACT concerning

State Racing Commission – Mile Thoroughbred Racing – Payment of Taxes

FOR the purpose of extending the time within which a mile thoroughbred licensee must pay pari–mutuel taxes to the State Racing Commission after each racing day; and generally relating to the State Racing Commission.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 11–509
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Business Regulation

11–509.

(a) A licensee shall pay to the Commission within **[**3**]** **7** days after each racing day the State tax imposed in this subtitle on the handle for that racing day.

(b) A licensee or an agent of the licensee shall submit with the daily tax payment a statement under oath of the handle for that day.

(c) The Commission shall pay promptly to the Comptroller all taxes collected under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 23

(Senate Bill 186)

AN ACT concerning

Department of General Services – Small Procurement Process

FOR the purpose of altering the maximum amount of a procurement contract that may be eligible for the small procurement process for certain construction contracts

sought to be awarded by the Department of General Services; and generally relating to the small procurement process.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–109(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 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

13–109.

(a) In this section, "small procurement" means a procurement for which:

(1) a unit spends $25,000 or less; **[**or**]**

(2) a contractor provides services subject to § 11–202(3) of this article for expected annual revenues of $25,000 or less**; OR**

(3) THE DEPARTMENT OF GENERAL SERVICES IS SEEKING TO AWARD A PROCUREMENT CONTRACT FOR A CONSTRUCTION WITH A VALUE THAT IS $50,000 OR LESS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 24

(Senate Bill 191)

AN ACT concerning

State Ethics Commission – Electronic Filing Under Oath or Affirmation – Electronic Signature

FOR the purpose of clarifying that, for purposes of certain financial disclosure statements and reports filed electronically with the State Ethics Commission, certain oaths or affirmations must be made by electronic signature that subjects the individual making the electronic signature to the penalties of perjury; and generally relating to electronic filing of certain statements and reports under oath or affirmation.

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–602(e) and 15–709
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – State Government

15–602.

(e) (1) If the financial disclosure statement filed electronically under subsection (d) of this section is required to be made under oath or affirmation, the oath or affirmation shall be made by **[**a signed statement**]** **AN ELECTRONIC SIGNATURE** that:

(i) is in the financial disclosure statement or attached to and made part of the financial disclosure statement; and

(ii) is made expressly under the penalties for perjury.

(2) ~~A signed statement~~ **AN ELECTRONIC SIGNATURE** made under paragraph (1) of this subsection subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

15–709.

(a) The State Ethics Commission shall develop procedures under which a report required under §§ 15–704 through 15–708 of this subtitle:

(1) may be filed electronically without additional cost to the individual who files the report; and

(2) shall be made available for public inspection electronically.

(b) (1) If the report filed electronically under subsection (a) of this section is required to be made under oath or affirmation, the oath or affirmation shall be made by **[**a signed statement**]** **AN ELECTRONIC SIGNATURE** that:

(i) is in the report or attached to and made part of the report; and

(ii) is made expressly under the penalties for perjury.

(2) **[**A signed statement**]** **AN ELECTRONIC SIGNATURE** made under paragraph (1) of this subsection subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 25

(Senate Bill 192)

AN ACT concerning

Maryland Health Insurance Plan – Application of Insurance Fraud Law

FOR the purpose of providing that certain provisions of law relating to fraudulent insurance acts that apply to insurers also apply to the Maryland Health Insurance Plan.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–402
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Insurance

27–402.

The provisions of this subtitle that apply to insurers also apply to:

(1) a corporation that operates a nonprofit health service plan under Title 14, Subtitle 2 of this article;

(2) a dental plan organization as defined in § 14–401 of this article;

(3) a health maintenance organization as defined in Title 19, Subtitle 7 of the Health – General Article;

(4) a surplus lines insurer;

(5) the Maryland Automobile Insurance Fund;

(6) the Injured Workers' Insurance Fund;

(7) the State when a claim has been filed against the State under Title 12 of the State Government Article;

(8) the State when a claim has been filed against the State under Title 8, Subtitle 1 of the State Personnel and Pensions Article;

(9) the State, including the Uninsured Employers' Fund, when a claim has been filed against the State under Title 9 of the Labor and Employment Article;

(10) the Maryland Transit Administration when acting as a self–insurer under § 7–703 of the Transportation Article;

(11) a third party administrator under Title 8, Subtitle 3 of this article;

(12) a self–insurer under § 17–103(a)(2) of the Transportation Article; **[**and**]**

(13) THE MARYLAND HEALTH INSURANCE PLAN; AND

[(13)**] (14)** an agent, employee, or representative of an entity described in items (1) through **[**(12)**] (13)** of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 26

(Senate Bill 195)

AN ACT concerning

Law Enforcement Officers' Pension System – Baltimore City Community College – Police Officers

FOR the purpose of providing for the membership of certain police officers in the Baltimore City Community College Police Force in the Law Enforcement Officers' Pension System; requiring that a certain budget for the Baltimore City Community College include an appropriation for the purpose of transferring certain police officers into the Law Enforcement Officers' Pension System; and generally relating to the Law Enforcement Officers' Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 26–201(a)(19) and (20) and (b)(12) and (13) and 26–202(b)(1)(xvi) and (xvii)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 26–201(a)(21) and (b)(14) and 26–202(b)(1)(xviii)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

26–201.

(a) Except as provided in subsection (b) of this section, this subtitle applies only to:

(19) an individual who is elected or appointed as the Baltimore City Sheriff and who does not elect to join the Employees' Pension System under Title 23 of this article within 6 months of the date the individual begins serving as the Baltimore City Sheriff; **[**or**]**

(20) a member of the Department of Public Safety and Correctional Services Internal Investigative Unit who has the powers granted to a police officer under § 10–701 of the Correctional Services Article**; OR**

(21) A POLICE OFFICER EMPLOYED BY THE BALTIMORE CITY COMMUNITY COLLEGE WHO HAS THE POWER GRANTED TO A POLICE OFFICER UNDER § 16–513 OF THE EDUCATION ARTICLE.

(b) This subtitle does not apply to:

(12) a firefighter or paramedic employed by the Salisbury Fire Department who transferred from the Employees' Retirement System to the Employees' Pension System on or after April 1, 1998; [or]

(13) an aviator employed by the Department of State Police to operate an aircraft for the State Emergency Medical System who transferred from the Employees' Retirement System to the Employees' Pension System on or after April 1, 1998; OR

(14) A POLICE OFFICER EMPLOYED BY THE BALTIMORE CITY COMMUNITY COLLEGE WHO TRANSFERRED FROM THE EMPLOYEES' RETIREMENT SYSTEM TO THE EMPLOYEES' PENSION SYSTEM ON OR AFTER DECEMBER 1, 1996.

26–202.

(b) (1) Subject to paragraph (2) of this subsection, membership in the Law Enforcement Officers' Pension System is optional for an individual described in § 26–201 of this subtitle:

(xvi) who was employed by the Military Department as a law enforcement officer at Martin State Airport on June 30, 2007, and who elects membership on or before December 31, 2007; **[**or**]**

(xvii) who was a member of the Department of Public Safety and Correctional Services Internal Investigative Unit who has powers granted to a police

officer under § 10–701 of the Correctional Services Article on June 30, 2007, and who elects membership on or before December 31, 2007**; OR**

(XVIII) WHO WAS EMPLOYED ON JULY 1, 2008, AS A POLICE OFFICER BY THE BALTIMORE CITY COMMUNITY COLLEGE POLICE FORCE AND WHO ELECTS MEMBERSHIP ON OR BEFORE DECEMBER 31, 2008.

SECTION 2. AND BE IT FURTHER ENACTED, That the operating budget for the Baltimore City Community College for fiscal year 2009 shall include an appropriation for the purpose of transferring police officers employed by the Baltimore City Community College into the Law Enforcement Officers' Pension System as provided in Section 1 of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 27

(Senate Bill 200)

AN ACT concerning

Commission to Study Southern Maryland Transportation Needs

FOR the purpose of authorizing the Commission to Study Southern Maryland Transportation Needs to reconvene for certain purposes; altering the date by which the Commission is required to report its findings and recommendations to the Governor and the General Assembly; altering the date for the termination of certain provisions of law; and generally relating to the Commission to Study Southern Maryland Transportation Needs.

BY repealing and reenacting, with amendments,
Chapter 14 of the Acts of the General Assembly of 2006
Section 1 and 2

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

Chapter 14 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Commission to Study Southern Maryland Transportation Needs.

(b) The Commission consists of the following 21 members:

(1) the President of the Senate of Maryland, or the President's designee;

(2) the Speaker of the House of Delegates, or the Speaker's designee;

(3) the Secretary of Transportation, or the Secretary's designee;

(4) the Secretary of Budget and Management, or the Secretary's designee;

(5) the representative to the U.S. Congress from the 5th district of Maryland, or the representative's designee;

(6) one county commissioner from St. Mary's County selected by the St. Mary's County Commissioners;

(7) one county commissioner from Charles County selected by the Charles County Commissioners;

(8) one county commissioner from Calvert County selected by the Calvert County Commissioners;

(9) one member of the Prince George's County Council selected by the Prince George's County Council;

(10) one member of the Anne Arundel County Council selected by the Anne Arundel County Council;

(11) the three senators and seven delegates representing State legislative districts 28 and 29 and sub–district 27B; and

(12) one representative of the private sector who specializes in bus rapid transit.

(c) The Commission shall elect a chairman and vice chairman of the Commission at its first meeting.

(d) The Commission shall coordinate with the Tri–County Council's Regional Infrastructure Advisory Committee.

(e) (1) The State agencies represented on the Commission shall provide staff for the Commission.

(2) The Tri–County Council for Southern Maryland shall provide technical and staff support for the Commission.

(f) A member of the Commission:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Commission shall:

(1) review the study prepared by the Maryland Department of Transportation regarding mass transit in Southern Maryland under Chapter 594, Acts of 1998, the Southern Maryland Regional Transportation Strategy, the MD 5/U.S. 301 Transit Service Staging Plan, and any other relevant mass transit studies and plans;

(2) study the Southern Maryland rail transit alternatives, including a light rail transit system in the Maryland Route 5 corridor from White Plains to Branch Avenue;

(3) study the current and future impact of traffic congestion in Southern Maryland, including traffic levels on roads including U.S. Route 301 and Maryland Routes 2/4, 4, 5, 210, 228, 231, 235, and 260;

(4) make recommendations on potential strategies, including roadway improvements and mass transit, including light rail transit to reduce traffic congestion on the roads specified in item (3) of this subsection and throughout the Southern Maryland region;

(5) study and make recommendations regarding the amount of funding necessary to implement traffic congestion reduction strategies in Southern Maryland;

(6) assess the barriers to implementing roadway improvements and mass transit, including light rail service, in Southern Maryland and make recommendations to address those barriers; and

(7) make recommendations for potential funding mechanisms to implement traffic congestion reduction strategies in Southern Maryland.

(h) The Commission may:

(1) conduct site visits to view rail transportation systems in Maryland;

(2) request information from representatives of CSX Corporation relating to existing rail lines in Southern Maryland;

(3) include in its study those communities in Prince George's County that lie directly adjacent to St. Mary's and Charles counties and which might be impacted by the Commission's recommendations;

(4) include in its study those communities in Anne Arundel County that lie directly adjacent to Calvert County and which might be impacted by the Commission's recommendations; **[**and**]**

(5) hold public hearings to receive comments from interested parties**; AND**

(6) ELECT TO RECONVENE TO STUDY AND MAKE ALTERATIONS TO DRAFTS OF ITS RECOMMENDATIONS AND TO STUDY ITS FINDINGS.

(i) The Commission shall report its findings and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on or before **[**November 1, 2006**]** **JUNE 30, 2008**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2005. It shall remain effective for a period of **[**2**]** **4** years and, at the end of June 30, **[**2007**]** **2009**, 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 28

(House Bill 507)

AN ACT concerning

Commission to Study Southern Maryland Transportation Needs

FOR the purpose of authorizing the Commission to Study Southern Maryland Transportation Needs to reconvene for certain purposes; altering the date by which the Commission is required to report its findings and recommendations to the Governor and the General Assembly; altering the date for the termination of certain provisions of law; and generally relating to the Commission to Study Southern Maryland Transportation Needs.

BY repealing and reenacting, with amendments,
Chapter 14 of the Acts of the General Assembly of 2006
Section 1 and 2

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

Chapter 14 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Commission to Study Southern Maryland Transportation Needs.

(b) The Commission consists of the following 21 members:

(1) the President of the Senate of Maryland, or the President's designee;

(2) the Speaker of the House of Delegates, or the Speaker's designee;

(3) the Secretary of Transportation, or the Secretary's designee;

(4) the Secretary of Budget and Management, or the Secretary's designee;

(5) the representative to the U.S. Congress from the 5th district of Maryland, or the representative's designee;

(6) one county commissioner from St. Mary's County selected by the St. Mary's County Commissioners;

(7) one county commissioner from Charles County selected by the Charles County Commissioners;

(8) one county commissioner from Calvert County selected by the Calvert County Commissioners;

(9) one member of the Prince George's County Council selected by the Prince George's County Council;

(10) one member of the Anne Arundel County Council selected by the Anne Arundel County Council;

(11) the three senators and seven delegates representing State legislative districts 28 and 29 and sub–district 27B; and

(12) one representative of the private sector who specializes in bus rapid transit.

(c) The Commission shall elect a chairman and vice chairman of the Commission at its first meeting.

(d) The Commission shall coordinate with the Tri–County Council's Regional Infrastructure Advisory Committee.

(e) (1) The State agencies represented on the Commission shall provide staff for the Commission.

(2) The Tri–County Council for Southern Maryland shall provide technical and staff support for the Commission.

(f) A member of the Commission:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The Commission shall:

(1) review the study prepared by the Maryland Department of Transportation regarding mass transit in Southern Maryland under Chapter 594, Acts of 1998, the Southern Maryland Regional Transportation Strategy, the MD 5/U.S. 301 Transit Service Staging Plan, and any other relevant mass transit studies and plans;

(2) study the Southern Maryland rail transit alternatives, including a light rail transit system in the Maryland Route 5 corridor from White Plains to Branch Avenue;

(3) study the current and future impact of traffic congestion in Southern Maryland, including traffic levels on roads including U.S. Route 301 and Maryland Routes 2/4, 4, 5, 210, 228, 231, 235, and 260;

(4) make recommendations on potential strategies, including roadway improvements and mass transit, including light rail transit to reduce traffic congestion on the roads specified in item (3) of this subsection and throughout the Southern Maryland region;

(5) study and make recommendations regarding the amount of funding necessary to implement traffic congestion reduction strategies in Southern Maryland;

(6) assess the barriers to implementing roadway improvements and mass transit, including light rail service, in Southern Maryland and make recommendations to address those barriers; and

(7) make recommendations for potential funding mechanisms to implement traffic congestion reduction strategies in Southern Maryland.

(h) The Commission may:

(1) conduct site visits to view rail transportation systems in Maryland;

(2) request information from representatives of CSX Corporation relating to existing rail lines in Southern Maryland;

(3) include in its study those communities in Prince George's County that lie directly adjacent to St. Mary's and Charles counties and which might be impacted by the Commission's recommendations;

(4) include in its study those communities in Anne Arundel County that lie directly adjacent to Calvert County and which might be impacted by the Commission's recommendations; **[**and**]**

(5) hold public hearings to receive comments from interested parties**; AND**

(6) ELECT TO RECONVENE TO STUDY AND MAKE ALTERATIONS TO DRAFTS OF ITS RECOMMENDATIONS AND TO STUDY ITS FINDINGS.

(i) The Commission shall report its findings and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on or before **[**November 1, 2006**] JUNE 30, 2008**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2005. It shall remain effective for a period of **[**2**] 4** years and, at the end of June 30, **[**2007**] 2009**, 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 29

(Senate Bill 250)

AN ACT concerning

Criminal Law – Forgery of Signature and Counterfeit Documents – Prohibition

FOR the purpose of prohibiting a person from writing, signing, or possessing certain counterfeited documents; prohibiting a person from forging, falsifying, or counterfeiting the signature of certain persons; establishing certain penalties; providing that a certain crime is not covered by the 1–year statute of limitations for a misdemeanor; making stylistic changes; and generally relating to prohibitions on forgery of signatures and counterfeit documents.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 8–605
Annotated Code of Maryland

(2002 Volume and 2007 Supplement)

BY adding to
Article – Criminal Law
Section 8–606.1
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

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

Article – Criminal Law

8–605.

(a) (1) A person**[**, with intent to defraud another,**]** may not counterfeit, **[**or**]** cause to be counterfeited, or willingly aid or assist in counterfeiting:

(i) a commission, patent, **[**or**]** pardon**, ORDER FOR RELEASE, OR OTHER COURT DOCUMENT**; or

(ii) a warrant, certificate, or other public security from which money may be drawn from the treasury of the State.

[(2) A person, with intent to defraud another, may not print, write, sign, or pass a counterfeit warrant, certificate, or public security if the person knows that it was counterfeited.**]**

(2) A PERSON MAY NOT WRITE, SIGN, OR POSSESS A COUNTERFEIT:

(I) COMMISSION, PATENT, PARDON, ORDER FOR RELEASE, OR OTHER COURT DOCUMENT; OR

(II) WARRANT, CERTIFICATE, OR OTHER PUBLIC SECURITY FROM WHICH MONEY MAY BE DRAWN FROM THE TREASURY OF THE STATE.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment for not less than 2 years and not exceeding 10 years.

8–606.1.

(A) A PERSON MAY NOT:

(1) FORGE, FALSIFY, OR COUNTERFEIT THE SIGNATURE OF A JUDGE, COURT OFFICER, OR COURT EMPLOYEE OF THE STATE; OR

(2) USE A DOCUMENT WITH A FORGED, FALSE, OR COUNTERFEIT SIGNATURE OF A JUDGE, COURT OFFICER, OR OTHER COURT EMPLOYEE OF THE STATE KNOWING THE SIGNATURE TO BE FORGED, FALSE, OR COUNTERFEIT.

(B) 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 $10,000 OR BOTH.

(C) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5–106(B) OF THE COURTS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 30

(House Bill 550)

AN ACT concerning

Criminal Law – Forgery of Signature and Counterfeit Documents – Prohibition

FOR the purpose of prohibiting a person from writing, signing, or possessing certain counterfeited documents; prohibiting a person from forging, falsifying, or counterfeiting the signature of certain persons; establishing certain penalties; providing that a certain crime is not covered by the 1–year statute of limitations for a misdemeanor; making stylistic changes; and generally relating to prohibitions on forgery of signatures and counterfeit documents.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 8–605
Annotated Code of Maryland

(2002 Volume and 2007 Supplement)

BY adding to
Article – Criminal Law
Section 8–606.1
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

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

Article – Criminal Law

8–605.

(a) (1) A person**[**, with intent to defraud another,**]** may not counterfeit, **[**or**]** cause to be counterfeited, or willingly aid or assist in counterfeiting:

(i) a commission, patent, **[**or**]** pardon**, ORDER FOR RELEASE, OR OTHER COURT DOCUMENT**; or

(ii) a warrant, certificate, or other public security from which money may be drawn from the treasury of the State.

[(2) A person, with intent to defraud another, may not print, write, sign, or pass a counterfeit warrant, certificate, or public security if the person knows that it was counterfeited.**]**

(2) A PERSON MAY NOT WRITE, SIGN, OR POSSESS A COUNTERFEIT:

(I) COMMISSION, PATENT, PARDON, ORDER FOR RELEASE, OR OTHER COURT DOCUMENT; OR

(II) WARRANT, CERTIFICATE, OR OTHER PUBLIC SECURITY FROM WHICH MONEY MAY BE DRAWN FROM THE TREASURY OF THE STATE.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment for not less than 2 years and not exceeding 10 years.

8–606.1.

(A) A PERSON MAY NOT:

(1) FORGE, FALSIFY, OR COUNTERFEIT THE SIGNATURE OF A JUDGE, COURT OFFICER, OR COURT EMPLOYEE OF THE STATE; OR

(2) USE A DOCUMENT WITH A FORGED, FALSE, OR COUNTERFEIT SIGNATURE OF A JUDGE, COURT OFFICER, OR OTHER COURT EMPLOYEE OF THE STATE KNOWING THE SIGNATURE TO BE FORGED, FALSE, OR COUNTERFEIT.

(B) 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 $10,000 OR BOTH.

(C) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5–106(B) OF THE COURTS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 31

(Senate Bill 252)

AN ACT concerning

Anne Arundel County – Prospective or Current Employees or Volunteers – Criminal History Records Checks

FOR the purpose of altering the requirements for the ~~Director of Administration~~ Personnel Officer of Anne Arundel County to request State and national criminal records checks from the Criminal Justice Information System Central Repository for a prospective or current employee or volunteer; requiring the ~~Director of Administration~~ Personnel Officer of Anne Arundel County to submit certain items to the Central Repository; requiring the Central Repository to forward the prospective or current employee's or volunteer's criminal history information to the prospective or current employee or volunteer and the ~~Director of Administration~~ Personnel Officer of Anne Arundel County; providing that certain information obtained from the Central Repository is confidential, may not be redisseminated, and may only be used for a certain ~~employment~~

personnel–related purpose; authorizing the subject of a certain criminal history records check to contest the contents of a certain printed statement; ~~authorizing~~ requiring the County Council to adopt guidelines to carry out this Act; defining a certain term; and generally relating to criminal history records checks for prospective or current employees or volunteers in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 10–231
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

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

Article – Criminal Procedure

10–231.

(a) **IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

(B) **[**In accordance with guidelines that the Anne Arundel County Council adopts by resolution, the**] THE** ~~Director of Administration~~ **PERSONNEL OFFICER** of Anne Arundel County **[**may request**]** ~~**SHALL APPLY TO**~~ **FROM THE CENTRAL REPOSITORY** ~~**FOR**~~ a State and national criminal history records check **[**from the Central Repository**]** for **[**a**]** ~~**EACH**~~ prospective ~~employee~~ **OR CURRENT EMPLOYEE OR VOLUNTEER** of Anne Arundel County.

[(b) The Director of Administration shall pay to the Department the fee imposed by the Department for each request made under subsection (a) of this section.**]**

(C) (1) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE ~~**DIRECTOR OF ADMINISTRATION**~~ **PERSONNEL OFFICER OF ANNE ARUNDEL COUNTY SHALL SUBMIT TO THE CENTRAL REPOSITORY:**

(I) TWO COMPLETE SETS OF THE PROSPECTIVE ~~**EMPLOYEE'S**~~ **OR CURRENT EMPLOYEE'S OR VOLUNTEER'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;**

(II) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THIS SUBTITLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(2) IN ACCORDANCE WITH §§ 10–201 THROUGH 10–250 OF THIS SUBTITLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE PROSPECTIVE ~~EMPLOYEE~~ OR CURRENT EMPLOYEE OR VOLUNTEER AND THE ~~DIRECTOR OF ADMINISTRATION~~ PERSONNEL OFFICER OF ANNE ARUNDEL COUNTY THE PROSPECTIVE ~~EMPLOYEE'S~~ OR CURRENT EMPLOYEE'S OR VOLUNTEER'S CRIMINAL HISTORY RECORD INFORMATION.

(3) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

(II) MAY BE USED ONLY FOR ~~THE EMPLOYMENT~~ A PERSONNEL–RELATED PURPOSE CONCERNING A PROSPECTIVE OR CURRENT EMPLOYEE OR VOLUNTEER OF THE COUNTY AS AUTHORIZED BY THIS SECTION.

(4) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10–223 OF THIS SUBTITLE.

(D) THE ANNE ARUNDEL COUNTY COUNCIL ~~MAY~~ SHALL ADOPT GUIDELINES TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 32

(Senate Bill 324)

AN ACT concerning

Washington Metropolitan Area Transit Commission – Appointment of Virginia Member

FOR the purpose of altering the agency of the Commonwealth of Virginia from which the Governor of Virginia is required to appoint the Virginia member of the Washington Metropolitan Area Transit Commission; making this Act subject to a certain contingency; and generally relating to the appointment of the Virginia member of the Washington Metropolitan Area Transit Commission.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 10–203 Title I Article I and Article II
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 10–203 Title I Article III Section 1(a)
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

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

Article – Transportation

10–203.

TITLE I

General Compact Provisions

Article I

There is created the Washington Metropolitan Area Transit District, referred to as the Metropolitan District, which shall include: the District of Columbia; the cities of Alexandria and Falls Church of the State of Virginia; Arlington County and Fairfax County of the State of Virginia, the political subdivisions located within those

counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports.

Article II

1. The signatories hereby create the "Washington Metropolitan Area Transit Commission", hereafter called the "Commission", which shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and shall have the powers and duties set forth in the Compact and those additional powers and duties conferred upon it by subsequent action of the signatories.

2. The Commission shall have jurisdiction coextensive with the Metropolitan District for the regulation of passenger transportation within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District, as set forth in this Compact.

Article III

1. (a) The Commission shall be composed of 3 members, one member appointed by the Governor of Virginia from the **[**State Corporation Commission**]** **DEPARTMENT OF MOTOR VEHICLES** of the Commonwealth of Virginia, one member appointed by the Governor of Maryland from the Maryland Public Service Commission, and one member appointed by the Mayor of the District of Columbia from the Public Service Commission of the District of Columbia.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect until a similar Act is enacted by the Commonwealth of Virginia and the District of Columbia; that the Commonwealth of Virginia and the District of Columbia are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia, the District of Columbia, and the United States Congress of the enactment of this Act; and that upon the concurrence in this Act by the Commonwealth of Virginia and the District of Columbia and approval by the United States Congress, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Maryland Department of Legislative Services.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 33

(House Bill 739)

AN ACT concerning

Washington Metropolitan Area Transit Commission – Appointment of Virginia Member

FOR the purpose of altering the agency of the Commonwealth of Virginia from which the Governor of Virginia is required to appoint the Virginia member of the Washington Metropolitan Area Transit Commission; making this Act subject to a certain contingency; and generally relating to the appointment of the Virginia member of the Washington Metropolitan Area Transit Commission.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 10–203 Title I Article I and Article II
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 10–203 Title I Article III Section 1(a)
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

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

Article – Transportation

10–203.

TITLE I

General Compact Provisions

Article I

There is created the Washington Metropolitan Area Transit District, referred to as the Metropolitan District, which shall include: the District of Columbia; the cities of Alexandria and Falls Church of the State of Virginia; Arlington County and Fairfax County of the State of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports.

Article II

1. The signatories hereby create the "Washington Metropolitan Area Transit Commission", hereafter called the "Commission", which shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and shall have the powers and duties set forth in the Compact and those additional powers and duties conferred upon it by subsequent action of the signatories.

2. The Commission shall have jurisdiction coextensive with the Metropolitan District for the regulation of passenger transportation within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District, as set forth in this Compact.

Article III

1. (a) The Commission shall be composed of 3 members, one member appointed by the Governor of Virginia from the **[**State Corporation Commission**]** **DEPARTMENT OF MOTOR VEHICLES** of the Commonwealth of Virginia, one member appointed by the Governor of Maryland from the Maryland Public Service Commission, and one member appointed by the Mayor of the District of Columbia from the Public Service Commission of the District of Columbia.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect until a similar Act is enacted by the Commonwealth of Virginia and the District of Columbia; that the Commonwealth of Virginia and the District of Columbia are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia, the District of Columbia, and

the United States Congress of the enactment of this Act; and that upon the concurrence in this Act by the Commonwealth of Virginia and the District of Columbia and approval by the United States Congress, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Maryland Department of Legislative Services.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 34

(Senate Bill 347)

AN ACT concerning

Credit Regulation – Credit Grantor Provisions – Fees, Charges, and Penalties

FOR the purpose of clarifying that certain fees or charges may be collected by a credit grantor at any time; providing that certain penalties do not apply for certain acts or omissions arising from conformity to or reliance on certain opinions, interpretations, or approvals by certain persons under certain circumstances; providing that certain provisions of this Act may not be construed to limit certain penalties or limit certain powers of the Commissioner of Financial Regulation or the courts under certain circumstances; providing for the application of certain provisions of this Act; making the provisions of this Act severable; making this Act an emergency measure; and generally relating to regulation of credit grantors.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–905(b), 12–1005(d), and 12–1009(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Commercial Law
Section 12–918.1 and 12–1018.1
Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

Article – Commercial Law

12–905.

(b) **(1)** Except as provided in subsection (f) of this section, with respect to a secured open end credit plan, fees or charges may not be imposed on a consumer borrower in addition to interest or finance charges except for actual and verifiable fees incurred by the credit grantor and not retained by the credit grantor for the following:

[(1)**]** **(I)** Attorney's fees for services rendered in connection with the preparation, closing, or disbursement of the loan;

[(2)**]** **(II)** Any expense, tax, or charge paid to a governmental agency;

[(3)**]** **(III)** Examination of title, appraisal, or other costs necessary or appropriate to the security of the loan; and

[(4)**]** **(IV)** Premiums for any insurance coverage permitted under this subtitle.

(2) THE ADDITIONAL FEES OR CHARGES PERMITTED UNDER THIS SUBSECTION MAY BE IMPOSED, CHARGED, AND COLLECTED AT ANY TIME.

12–1005.

In addition to interest at a periodic percentage rate or rates permitted by §§ 12–1003 and 12–1004 of this subtitle, a credit grantor may charge and collect:

(d) **(1)** In the case of a loan to a consumer borrower, a fee permitted under subsection (b) of this section may not be charged and collected unless:

[(1)**]** **(I)** The agreement, note, or other evidence of the loan permits;

[(2)**]** **(II)** The fee is an actual and verifiable expense of the credit grantor not retained by him; and

[(3)**]** **(III)** Limited to charges for:

[(i)**]** **1.** Attorney's fees for services rendered in connection with the preparation, closing, or disbursement of the loan;

[(ii)**]** **2.** Any expense, tax, or charge paid to a governmental agency;

[(iii)**]** **3.** Examination of title, appraisal, or other costs necessary or appropriate to the security of the loan; and

[(iv)**]** **4.** Premiums for any insurance coverage permitted under this subtitle.

(2) NOTWITHSTANDING § 12–1009(E) OF THIS SUBTITLE, FEES AND CHARGES PERMITTED UNDER THIS SUBSECTION MAY BE IMPOSED, CHARGED, AND COLLECTED AT ANY TIME.

12–1009.

(e) **[**In**]** **EXCEPT AS PROVIDED IN § 12–1005(D) OF THIS SUBTITLE, IN** connection with any prepayment of any loan by a consumer borrower, the credit grantor may not impose any prepayment charge.

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

Article – Commercial Law

12–918.1.

(A) IN THIS SECTION, "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE PENALTY PROVIDED UNDER § 12–918(A)(2) OF THIS SUBTITLE DOES NOT APPLY IF A CREDIT GRANTOR:

(1) PERFORMED OR OMITTED TO PERFORM AN ACT IN CONFORMITY WITH OR IN RELIANCE ON:

(I) A WRITTEN OPINION OF THE ATTORNEY GENERAL OF MARYLAND OR A REGULATION ADOPTED BY THE COMMISSIONER;

(II) A WRITTEN OPINION BY THE COMMISSIONER OR DEPUTY COMMISSIONER; OR

(III) AN INTERPRETATION BY THE COMMISSIONER IN A WRITTEN NOTICE OR EXAMINATION REPORT; OR

(2) USED A FORM OR PROCEDURE THAT HAS BEEN APPROVED IN WRITING BY THE COMMISSIONER AND THE ATTORNEY GENERAL.

(C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO AN ACT OR OMISSION TO ACT THAT OCCURS AFTER:

(1) THE OPINION, REGULATION, OR INTERPRETATION RELIED ON IS AMENDED, REPEALED, OR DETERMINED TO BE INVALID FOR ANY REASON BY ANY JUDICIAL OR OTHER AUTHORITY; OR

(2) APPROVAL FOR A FORM OR PROCEDURE IS AMENDED, RESCINDED, OR DETERMINED TO BE INVALID FOR ANY REASON BY ANY JUDICIAL OR OTHER AUTHORITY.

(D) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) LIMIT THE IMPOSITION OF ANY CIVIL OR CRIMINAL PENALTY FOR A KNOWING OR WILLFUL VIOLATION OF THIS SUBTITLE; OR

(2) LIMIT THE POWER OF THE COMMISSIONER OR THE COURTS TO ORDER A REFUND TO A BORROWER OF MONEYS COLLECTED IN VIOLATION OF THIS SUBTITLE.

12–1018.1.

(A) IN THIS SECTION, "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE PENALTY PROVIDED UNDER § 12–1018(A)(2) OF THIS SUBTITLE DOES NOT APPLY IF A CREDIT GRANTOR:

(1) PERFORMED OR OMITTED TO PERFORM AN ACT IN CONFORMITY WITH OR IN RELIANCE UPON:

(I) A WRITTEN OPINION OF THE ATTORNEY GENERAL OF MARYLAND OR A REGULATION ADOPTED BY THE COMMISSIONER;

(II) A WRITTEN OPINION BY THE COMMISSIONER OR THE DEPUTY COMMISSIONER; OR

(III) AN INTERPRETATION BY THE COMMISSIONER IN A WRITTEN NOTICE OR EXAMINATION REPORT; OR

(2) USED A FORM OR PROCEDURE THAT HAS BEEN APPROVED IN WRITING BY THE COMMISSIONER AND THE ATTORNEY GENERAL.

(C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO AN ACT OR OMISSION TO ACT THAT OCCURS AFTER:

(1) THE OPINION, REGULATION, OR INTERPRETATION RELIED ON IS AMENDED, REPEALED, OR DETERMINED TO BE INVALID FOR ANY REASON BY ANY JUDICIAL OR OTHER AUTHORITY; OR

(2) APPROVAL FOR A FORM OR PROCEDURE IS AMENDED, RESCINDED, OR DETERMINED TO BE INVALID FOR ANY REASON BY ANY JUDICIAL OR OTHER AUTHORITY.

(D) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) LIMIT THE IMPOSITION OF ANY CIVIL OR CRIMINAL PENALTY FOR A KNOWING OR WILLFUL VIOLATION OF THIS SUBTITLE; OR

(2) LIMIT THE POWER OF THE COMMISSIONER OR THE COURTS TO ORDER A REFUND TO A BORROWER OF MONEYS COLLECTED IN VIOLATION OF THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall apply to contracts entered into prior to, on, or after the effective date of this Act, but this Act may not be applied to any case for which a final judgment has been rendered and for which all judicial appeals have been exhausted prior to the effective date of this Act.

SECTION 4. 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 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 8, 2008.

CHAPTER 35

(House Bill 852)

AN ACT concerning

Credit Regulation – Credit Grantor Provisions – Fees, Charges, and Penalties

FOR the purpose of clarifying that certain fees or charges may be collected by a credit grantor at any time; providing that certain penalties do not apply for certain acts or omissions arising from conformity to or reliance on certain opinions, interpretations, or approvals by certain persons under certain circumstances; providing that certain provisions of this Act may not be construed to limit certain penalties or limit certain powers of the Commissioner of Financial Regulation or the courts under certain circumstances; providing for the application of certain provisions of this Act; making the provisions of this Act severable; making this Act an emergency measure; and generally relating to regulation of credit grantors.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–905(b), 12–1005(d), and 12–1009(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Commercial Law
Section 12–918.1 and 12–1018.1
Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

Article – Commercial Law

12–905.

(b) **(1)** Except as provided in subsection (f) of this section, with respect to a secured open end credit plan, fees or charges may not be imposed on a consumer borrower in addition to interest or finance charges except for actual and verifiable fees incurred by the credit grantor and not retained by the credit grantor for the following:

[(1)**]** **(I)** Attorney's fees for services rendered in connection with the preparation, closing, or disbursement of the loan;

[(2)**]** **(II)** Any expense, tax, or charge paid to a governmental agency;

[(3)**]** **(III)** Examination of title, appraisal, or other costs necessary or appropriate to the security of the loan; and

[(4)**]** **(IV)** Premiums for any insurance coverage permitted under this subtitle.

(2) THE ADDITIONAL FEES OR CHARGES PERMITTED UNDER THIS SUBSECTION MAY BE IMPOSED, CHARGED, AND COLLECTED AT ANY TIME.

12–1005.

In addition to interest at a periodic percentage rate or rates permitted by §§ 12–1003 and 12–1004 of this subtitle, a credit grantor may charge and collect:

(d) **(1)** In the case of a loan to a consumer borrower, a fee permitted under subsection (b) of this section may not be charged and collected unless:

[(1)**]** **(I)** The agreement, note, or other evidence of the loan permits;

[(2)**]** **(II)** The fee is an actual and verifiable expense of the credit grantor not retained by him; and

[(3)**]** **(III)** Limited to charges for:

[(i)**]** **1.** Attorney's fees for services rendered in connection with the preparation, closing, or disbursement of the loan;

[(ii)**]** **2.** Any expense, tax, or charge paid to a governmental agency;

[(iii)**]** **3.** Examination of title, appraisal, or other costs necessary or appropriate to the security of the loan; and

[(iv)**]** **4.** Premiums for any insurance coverage permitted under this subtitle.

(2) NOTWITHSTANDING § 12–1009(E) OF THIS SUBTITLE, FEES AND CHARGES PERMITTED UNDER THIS SUBSECTION MAY BE IMPOSED, CHARGED, AND COLLECTED AT ANY TIME.

12–1009.

(e) **[**In**]** **EXCEPT AS PROVIDED IN § 12–1005(D) OF THIS SUBTITLE, IN** connection with any prepayment of any loan by a consumer borrower, the credit grantor may not impose any prepayment charge.

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

Article – Commercial Law

12–918.1.

(A) IN THIS SECTION, "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE PENALTY PROVIDED UNDER § 12–918(A)(2) OF THIS SUBTITLE DOES NOT APPLY IF A CREDIT GRANTOR:

(1) PERFORMED OR OMITTED TO PERFORM AN ACT IN CONFORMITY WITH OR IN RELIANCE ON:

(I) A WRITTEN OPINION OF THE ATTORNEY GENERAL OF MARYLAND OR A REGULATION ADOPTED BY THE COMMISSIONER;

(II) A WRITTEN OPINION BY THE COMMISSIONER OR DEPUTY COMMISSIONER; OR

(III) AN INTERPRETATION BY THE COMMISSIONER IN A WRITTEN NOTICE OR EXAMINATION REPORT; OR

(2) USED A FORM OR PROCEDURE THAT HAS BEEN APPROVED IN WRITING BY THE COMMISSIONER AND THE ATTORNEY GENERAL.

(C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO AN ACT OR OMISSION TO ACT THAT OCCURS AFTER:

(1) THE OPINION, REGULATION, OR INTERPRETATION RELIED ON IS AMENDED, REPEALED, OR DETERMINED TO BE INVALID FOR ANY REASON BY ANY JUDICIAL OR OTHER AUTHORITY; OR

(2) APPROVAL FOR A FORM OR PROCEDURE IS AMENDED, RESCINDED, OR DETERMINED TO BE INVALID FOR ANY REASON BY ANY JUDICIAL OR OTHER AUTHORITY.

(D) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) LIMIT THE IMPOSITION OF ANY CIVIL OR CRIMINAL PENALTY FOR A KNOWING OR WILLFUL VIOLATION OF THIS SUBTITLE; OR

(2) LIMIT THE POWER OF THE COMMISSIONER OR THE COURTS TO ORDER A REFUND TO A BORROWER OF MONEYS COLLECTED IN VIOLATION OF THIS SUBTITLE.

12–1018.1.

(A) IN THIS SECTION, "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE PENALTY PROVIDED UNDER § 12–1018(A)(2) OF THIS SUBTITLE DOES NOT APPLY IF A CREDIT GRANTOR:

(1) PERFORMED OR OMITTED TO PERFORM AN ACT IN CONFORMITY WITH OR IN RELIANCE UPON:

(I) A WRITTEN OPINION OF THE ATTORNEY GENERAL OF MARYLAND OR A REGULATION ADOPTED BY THE COMMISSIONER;

(II) A WRITTEN OPINION BY THE COMMISSIONER OR THE DEPUTY COMMISSIONER; OR

(III) AN INTERPRETATION BY THE COMMISSIONER IN A WRITTEN NOTICE OR EXAMINATION REPORT; OR

(2) USED A FORM OR PROCEDURE THAT HAS BEEN APPROVED IN WRITING BY THE COMMISSIONER AND THE ATTORNEY GENERAL.

(C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO AN ACT OR OMISSION TO ACT THAT OCCURS AFTER:

(1) THE OPINION, REGULATION, OR INTERPRETATION RELIED ON IS AMENDED, REPEALED, OR DETERMINED TO BE INVALID FOR ANY REASON BY ANY JUDICIAL OR OTHER AUTHORITY; OR

(2) APPROVAL FOR A FORM OR PROCEDURE IS AMENDED, RESCINDED, OR DETERMINED TO BE INVALID FOR ANY REASON BY ANY JUDICIAL OR OTHER AUTHORITY.

(D) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) LIMIT THE IMPOSITION OF ANY CIVIL OR CRIMINAL PENALTY FOR A KNOWING OR WILLFUL VIOLATION OF THIS SUBTITLE; OR

(2) LIMIT THE POWER OF THE COMMISSIONER OR THE COURTS TO ORDER A REFUND TO A BORROWER OF MONEYS COLLECTED IN VIOLATION OF THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall apply to contracts entered into prior to, on, or after the effective date of this Act, but this Act may not be applied to any case for which a final judgment has been rendered and for which all judicial appeals have been exhausted prior to the effective date of this Act.

SECTION 4. 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 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 8, 2008.

CHAPTER 36

(Senate Bill 601)

AN ACT concerning

Annual Corrective Bill

FOR the purpose of correcting certain errors and omissions in certain articles of the Annotated Code and Public Local Laws and in certain uncodified laws; clarifying language; correcting certain obsolete references; reorganizing certain sections of the Annotated Code; validating and 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 6–301(q)(6) and 8–404.1(b) and (c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 28 – Maryland–National Capital Park and Planning Commission
Section 2–112.2(g)(1)(ii)1.
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing
Article 41 – Governor – Executive and Administrative Departments
Title designation "Title 6. Department of Human Resources"
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 41 – Governor – Executive and Administrative Departments
Section 13–510(h)(1)(i)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 49B – Human Relations Commission
Section 11D(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 8–403(d)
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 14–101
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxi) and 23–101(e)(2)(iii), (iv), and (v)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(o)(4)(i) and (r)(8)(i)3., 3–8A–26, 5–401(b)(1)(iii)1.C., 5–603(b), 7–302(a), and 10–408(g)(4) and (5)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law
Section 7–104(i)
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 2–205(j)(1), 6–407(c)(5)(iii)1., and 6–504(d)(3)(ii)1.
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 7–428(a)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 478 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 2–207(e), 2–303(a)(1), and 13–305(e)
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 4–215(d), 4–401(i)(1) and (k), 4–410(b), 4–412(a)(2), 5–101(h)(1), 9–268, and 15–308
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 11–102(b)
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–401(c)(1)(i), 5–506(e), 5–539(b)(4) and (5), 5–539.1(g)(1) and (h), 5–545(a)(2), 5–1306(1), 10–113(h), and 10–119(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 2–206(c), 2–207(e)(2), 18–215(f)(1), and 19–134(e)(3)(ii)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 17–104(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 74 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–207(b)(2) and (3)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapters 212 and 213 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 2–305(b)(3)(i), 7–205(a)(9), 7–601, and 15–206(b)(2)(ii)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 2–310.1(b)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 391 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 7–101(a) and the title "Title 7. Morticians and Funeral Directors"; 7–201 and the subtitle "Subtitle 2. State Board of Morticians and Funeral Directors"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations

Section 8–202(b)(1)(iii)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 544 of the Acts of the General Assembly of 2007)

BY repealing
Article – Health Occupations
Section 20–101(h)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–115(d)(11)(iii)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–606(1)(iii) and 14–609(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 629 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–607(b)(1)(iv)
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 471 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–234(r)
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–702(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 10–301.1(c)(3)
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–105(d)(3)(i), 11–136(a)(1) and (e), and 14–125.2(a)(3)(iii)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 14–108.1(a)(3)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 286 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 7–315(f)(2)(iv), 18–102(a)(1), 18–103(c)(2), 19–107(a) and (d)(2)(ii), and 19–110(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 2–10A–03(b)(2)(i), 8–403(b), 9–802(h)(4), 15–704(c)(1), and 15–705(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 34–101(i)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 355 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 37–203.1(b)(3)(i)1.
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–1103, 10–207(c–1)(1)(i), 10–704.3(g), 13–901(f)(1)(ii)3. through 5., and 13–1001(f)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–211(b)(1)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 3 of the Acts of the General Assembly of the 2007 Special Session)

BY adding to
Article – Tax – General
Section 13–901(f)(1)(ii)6.
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 1–101(x)(3), 7–511(b)(1), and 14–1009(a)
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–246(a)
Annotated Code of Maryland
(2007 Replacement Volume)
(As enacted by Chapters 558 and 559 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 4–312(a)(1), 7–1003(3)(ii), and 8–402(b)(4)
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–809(a)(4)(ii)3. and 23–202(b)(1)

Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 636 of the Acts of the General Assembly of 2007
Section 2

BY repealing and reenacting, with amendments,
The Public Local Laws of Frederick County
Section 2–13–13(a)
Article 11 – Public Local Laws of Maryland
(2004 Edition and November 2007 Supplement, as amended)

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

Article 2B – Alcoholic Beverages

6–301.

(q) (6) (i) There is a fraternal/sororal/service license.

(ii) The annual license fee is $1,000.

(iii) The license may be issued to any local unit of a lodge or chapter of any bona fide nonprofit and nationwide fraternal, sororal, or service organization that:

1. Is composed solely of members duly elected and initiated in accordance with the rites and customs of that fraternal, sororal, or service organization;

2. Is in existence and operating in Montgomery County prior to the time of making application for a license;

3. Has a bona fide membership of not less than 200 persons and dues of not less than $5 per year per person; **AND**

4. Owns and operates a clubhouse principally for the use of its members and their guests when accompanied by members and for no other purpose, and not directly or indirectly owned or operated as a public business**[**;**].**

[5.**](IV)** A licensee may keep for sale and sell at retail any alcoholic beverages to any member or guest when accompanied by a member**[**;**].**

[6.**] (V)** The licensee is subject to all of the provisions of this article relating to beer, wine and liquor licenses, Class C, in force in Montgomery County, except the provisions requiring the maintenance of a championship golf course**[**; and**].**

[7.**](VI)** This license solely authorizes the sale and consumption on premises only.

DRAFTER'S NOTE:

Error: Incorrect tabulation in Article 2B, § 6–301(q)(6).

Occurred: Ch. 5, Acts of 1993.

8–404.1.

(b) The Board of License Commissioners may issue a Class BWT beer and light wine (on–premises) tasting license to the holder of a Class A beer and light wine **[**tasting**]** license.

(c) The Board of License Commissioners may issue a Class BWLT beer, wine**[**,**]** and liquor (on–premises) tasting license to a holder of a Class A beer, wine**[**,**]** and liquor license.

DRAFTER'S NOTE:

Error: Extraneous word in Article 2B, § 8–404.1(b) and extraneous commas in (c).

Occurred: Ch. 561, Acts of 2007.

Article 28 – Maryland–National Capital Park and Planning Commission

2–112.2.

(g) (1) (ii) 1. If the **[**hearing officer**]** **ADMINISTRATIVE LAW JUDGE** finds that the Commission was arbitrary and capricious in soliciting or entering into a service contract that is subject to the requirements of this section, and the Commission employee has been adversely affected, the **[**hearing officer**]** **ADMINISTRATIVE LAW JUDGE** may award the employee actual damages for back pay and front pay for a combined period of up to 2 years beginning on the date the employee was first adversely affected, provided that the employee is obligated to mitigate the actual damages.

DRAFTER'S NOTE:

Error: Incorrect terminology in Article 28, § 2–112.2(g)(1)(ii)1.

Occurred: Ch. 427, Acts of 2007.

Article 41 – Governor – Executive and Administrative Departments

[Title 6.
Department of Human Resources.**]**

DRAFTER'S NOTE:

Error: Obsolete title in Article 41.

Occurred: Ch. 3, Acts of 2007.

13–510.

(h) (1) (i) The Corporation may provide for the issuance of its bonds to **[**refunding**]** **REFUND** any outstanding bonds, including the payment of any redemption premium and any interest accrued or accruing to a later date of redemption, purchase, or maturity of the bonds, and, if the Corporation determines it advisable, for the additional purpose of paying all or any part of the cost of a project.

DRAFTER'S NOTE:

Error: Grammatical error in Article 41, § 13–510(h)(1)(i).

Occurred: Ch. 467, Acts of 2004.

Article 49B – Human Relations Commission

11D.

(a) In an action brought under this **[**section**]** **SUBTITLE**, the court, in its discretion, may award the prevailing party reasonable attorney's fees, expert witness fees, and costs.

DRAFTER'S NOTE:

Error: Erroneous internal reference in Article 49B, § 11D(a).

Occurred: Chs. 176 and 177, Acts of 2007.

Article – Agriculture

8–403.

(d) The application shall be accompanied by a statement of the Committee, which shall recite the fact that:

(1) A petition was filed;

(2) Notice was given;

(3) A referendum was held on the question of dividing or combining, or both, the named districts;

(4) The Committee determined that division or combination, or both, was administratively feasible;

(5) The division or combination, or both, of the property, **[**assets**]** **ASSETS,** and rights was decided upon and carried out in accordance with this subtitle; and

(6) The boundaries of the district **ARE** as described in the petition, or **AS** further defined by the Committee.

DRAFTER'S NOTE:

Error: Incorrect punctuation and grammatical error in § 8–403(d) of the Agriculture Article.

Occurred: Ch. 6, Acts of the First Special Session of 1973.

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) "Design coordination" means the review and coordination of services provided by individuals licensed or certified under Titles 3, 8, 9, 14, and 15 of this article.

(d) **[**(1)**]** "License" means, unless the context requires otherwise, a license issued by the Board to practice engineering.

[(2) "License" includes, unless the context requires otherwise, a limited license.**]**

(e) "License fee" means, as applicable, the fee paid in connection with the issuance and renewal of a license and the issuance of a **[**limited license and**]** reciprocal license.

[(f) "Limited license" means a license issued by the Board to practice engineering as limited by § 14–316 of this title.**]**

[(g)**] (F)** (1) "Practice engineering" means to provide any service or creative work the performance of which requires education, training, and experience in the application of:

(i) special knowledge of the mathematical, physical, and engineering sciences; and

(ii) the principles and methods of engineering analysis and design.

(2) In regard to a building or other structure, machine, equipment, process, works, system, project, or public or private utility, "practice engineering" includes:

(i) consultation;

(ii) design;

(iii) evaluation;

(iv) inspection of construction to ensure compliance with specifications and drawings;

(v) investigation;

(vi) planning; and

(vii) design coordination.

(3) "Practice engineering" does not include the exclusive and sole performance of nontechnical management activities.

[(h)**] (G)** "Professional engineer" means, unless the context requires otherwise, an engineer who is licensed by the Board to practice engineering.

[(i)**] (H)** (1) "Responsible charge" means direct control and personal supervision of engineering that requires initiative, professional skill, and independent judgment.

(2) "Responsible charge" includes responsible engineering teaching.

DRAFTER'S NOTE:

Error: Obsolete reference in § 14–101(e) and obsolete definition in § 14–101(f) of the Business Occupations and Professions Article.

Occurred: As a result of Ch. 403, Acts of 2007. The authority of the State Board for Professional Engineers to issue a limited license was repealed by Ch. 403 of the Acts of 2007.

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxi) Title 14, Subtitle **[**33**] 34** of this article, the Social Security Number Privacy Act;

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 13–301(14)(xxi) of the Commercial Law Article.

Occurred: Ch. 521, Acts of 2005.

23–101.

(e) (2) "Retirement community" does not include:

(iii) A program licensed by the Department of **[**Mental Health and Hygiene**]** **HEALTH AND MENTAL HYGIENE** under Title 7 or Title 10 of the Health – General Article;

(iv) A freestanding hospice care program regulated by the Department of **[**Mental Health and Hygiene**]** **HEALTH AND MENTAL HYGIENE** under Title 19, Subtitle 9 of the Health – General Article;

(v) A freestanding day care center for the elderly regulated by the Department of **[**Mental Health and Hygiene**]** **HEALTH AND MENTAL HYGIENE** under Title 14, Subtitle 2 of the Health – General Article;

DRAFTER'S NOTE:

Error: Misnomer in § 23–101(e)(2)(iii), (iv), and (v) of the Commercial Law Article.

Occurred: Ch. 292, Acts of 2004.

Article – Courts and Judicial Proceedings

2–309.

(o) (4) The primary duties of the Sheriff are the following:

(i) The security of the circuit court, and the performance of such duties as may be required of **[**them**]** **THE SHERIFF** by that court;

(r) (8) (i) The Sheriff and the Sheriff's deputies shall be limited in their duties as law enforcement officers, as follows:

3. The security of all State and county courts and **[**perform**]** **THE PERFORMANCE OF** such duties as may be required of them by the courts;

DRAFTER'S NOTE:

Error: Incorrect word usage in § 2–309(o)(4)(i) and (r)(8)(i)3 of the Courts and Judicial Proceedings Article.

Occurred: Ch. 426, Acts of 1985; Ch. 250, Acts of 1975.

3–8A–26.

Pursuant to the procedure provided in the Maryland Rules, the court may make an appropriate order directing, restraining, or otherwise controlling the conduct of a person who is properly before the court under this subtitle, if:

(1) The court finds that the conduct:

(i) Is or may be detrimental or harmful to a child over whom the court has jurisdiction; **[**or**]**

(ii) Will tend to defeat the execution of an order or disposition made or to be made; or

(iii) Will assist in the rehabilitation of or is necessary for the welfare of the child; and

(2) Notice of the application or motion and its grounds has been given as prescribed by the Maryland Rules.

DRAFTER'S NOTE:

Error: Extraneous conjunction in § 3–8A–26 of the Courts and Judicial Proceedings Article.

Occurred: Ch. 554, Acts of 1975.

5–401.

(b) (1) (iii) 1. "Motor carrier transportation contract" means a contract, agreement, or understanding concerning:

C. A service incidental to an activity described in item **[**(i)**]A** or **[**(ii)**]B** of this **[**paragraph**]** **SUBSUBPARAGRAPH**, including storage of property.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 5–401(b)(1)(iii)1C of the Courts and Judicial Proceedings Article.

Occurred: Ch. 83, Acts of 2007.

5–603.

(b) Subsection (a) of this section applies to the following:

(1) An individual who is licensed by this State to provide medical care;

(2) A member of any State, county, municipal, or volunteer fire department, ambulance and rescue squad **[**or**],** **OR** law enforcement agency **[**or of**],** the National Ski Patrol System, or a corporate fire department responding to a call outside of its corporate premises, if the member:

(i) Has completed an American Red Cross course in advanced first aid and has a current card showing that status;

(ii) Has completed an equivalent of an American Red Cross course in advanced first aid, as determined by the Secretary of Health and Mental Hygiene; or

(iii) Is certified or licensed by this State as an emergency medical services provider;

(3) A volunteer fire **[**department,**]** **DEPARTMENT OR** ambulance and rescue squad whose members have immunity; and

(4) A corporation when its fire department personnel are immune under paragraph (2) of this subsection.

DRAFTER'S NOTE:

Error: Omitted comma, extraneous words, and extraneous comma in § 5–603(b)(2) and (3) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 770, Acts of 1982.

7–302.

(a) Except as provided in subsections (b) through **[**(e)**] (F)** of this section, the clerks of the District Court shall:

(1) Collect costs, fines, forfeitures, or penalties imposed by the court; and

(2) Remit them to the State under a system agreed upon by the Chief Judge of the District Court and the Comptroller.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 7–302(a) of the Courts and Judicial Proceedings Article.

Occurred: As a result of Chs. 13 and 16, Acts of 2006.

10–408.

(g) (4) Within a reasonable **[**time**]** **TIME,** but not later than 90 days after the termination of the period of an order or **[**extensions thereof**]** **EXTENSION OF AN ORDER**, the issuing judge shall cause to be **[**served,**]** **SERVED** on the persons named in the order, and **ON** the other parties to intercepted communications as the judge may determine in **[**his**]** **THE JUDGE'S** discretion **[**that**]** is in the interest of justice, an inventory which shall include notice of:

(i) The fact of the entry of the order;

(ii) The date of the entry and the period of authorized interception; and

(iii) The fact that during the period wire, oral, or electronic communications were or were not intercepted.

(5) The judge, upon the filing of a motion, shall make available to the person or **[**his**]** **THE PERSON'S** counsel for inspection portions of the intercepted communications, **[**applications**]** **APPLICATIONS,** and orders pertaining to that person and the alleged crime.

[(5)**](6)** On an ex parte showing of good cause to the judge, the serving of the inventory required by this subsection may be postponed. The periods of postponement may not be longer than the authorizing judge deems necessary to achieve the purposes for which they were granted and in no event for longer than 30 days. No more than three periods of postponement may be granted. Any order issued extending the time in which the inventory notice is to be served must be under seal of the court and treated in the same manner as the order authorizing interception.

DRAFTER'S NOTE:

Error: Stylistic, punctuation, and grammatical errors in § 10–408(g)(4) and (5) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 692, Acts of 1977.

Article – Criminal Law

7–104.

(i) An action or prosecution for a violation of **[**paragraph (2) or (3) of this**]** subsection **(G)(2) OR (3) OF THIS SECTION** shall be commenced within 2 years after the commission of the crime.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 7–104(i) of the Criminal Law Article.

Occurred: Ch. 130, Acts of 2004.

Article – Education

2–205.

(j) (1) The State Board shall send the Governor an annual State public school budget including, subject to the **[**State**]** **MARYLAND** Constitution and existing laws, the appropriation for:

(i) The Department; and

(ii) State aid to the counties for current expenses, for student transportation and for the construction of school buildings.

DRAFTER'S NOTE:

Error: Stylistic error in § 2–205(j)(1) of the Education Article.

Occurred: Ch. 22, § 2, Acts of 1978.

6–407.

(c) (5) (iii) 1. Subject to the provisions of **[**sub–subparagraph**]** **SUBSUBPARAGRAPH** 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the Board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

DRAFTER'S NOTE:

Error: Extraneous hyphen in § 6–407(c)(5)(iii)1 of the Education Article.

Occurred: Ch. 706, Acts of 1997.

6–504.

(d) (3) (ii) 1. Subject to the provisions of **[**sub–subparagraph**]** **SUBSUBPARAGRAPH** 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the Board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.

DRAFTER'S NOTE:

Error: Extraneous hyphen in § 6–504(d)(3)(ii)1 of the Education Article.

Occurred: Ch. 543, Acts of 1994.

7–428.

(a) **[**(1)**]** The Department, in collaboration with the Department of Health and Mental Hygiene, shall provide awareness and training for Directors of Student Services in local education agencies on inhalant abuse.

DRAFTER'S NOTE:

Error: Stylistic error in § 7–428(a) of the Education Article.

Occurred: Ch. 478, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Education Article is ratified by this Act.

Article – Election Law

2–207.

(e) An employee of a local board is subject to the restrictions and requirements of § 2–301 of this **[**article**]** **TITLE**.

DRAFTER'S NOTE:

Error: Stylistic error in § 2–207(e) of the Election Law Article.

Occurred: Ch. 291, Acts of 2002.

2–303.

(a) (1) Subject to paragraph (2) of this **[**section**]** **SUBSECTION**, as it deems it expedient for the convenience of voters, a local board may:

(i) create and alter the boundaries for precincts in the county;

(ii) designate the location for polling places in any election district, ward, or precinct in the county; and

(iii) combine or abolish precincts.

DRAFTER'S NOTE:

Error: Stylistic error in § 2–303(a)(1) of the Election Law Article.

Occurred: Ch. 61, Acts of 2006.

13–305.

(e) A violation of **[**subsections**]** **SUBSECTION** (b) or (d) of this section constitutes a failure to file by the campaign finance entity, and the responsible officers are guilty of a misdemeanor and on conviction are subject to the penalties prescribed under Part VII of this **[**title**]** **SUBTITLE**.

DRAFTER'S NOTE:

Error: Stylistic errors in § 13–305(e) of the Election Law Article.

Occurred: Ch. 449, Acts of 2007; Ch. 291, Acts of 2002 (Incorrect use of "title" was originally enacted in § 13–305(a)(3) of the Election Law Article as enacted by Ch. 291, Acts of 2002, and was reenacted in subsequent Acts. See Ch. 510, Acts of 2006 and Ch. 449, Acts of 2007.).

Article – Environment

4–215.

(d) For purposes of a civil action brought under subsection (c) **OF THIS SECTION**, each day during which a violation continues constitutes a separate offense.

DRAFTER'S NOTE:

Error: Stylistic error in § 4–215(d) of the Environment Article.

Occurred: Ch. 682, Acts of 1982.

4–401.

(i) (1) "Oil storage facility" means any installation, structure or premises, **[**above ground**]** **ABOVEGROUND** or underground, in which oil is stored.

(k) "Removal costs" means the costs of removal that are incurred after a discharge of oil has **[**occurred, or**]** **OCCURRED OR,** in any case where there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

DRAFTER'S NOTE:

Error: Stylistic error; misplaced punctuation in § 4–401(i)(1) and (k) of the Environment Article.

Occurred: Ch. 808, Acts of 1989; Ch. 459, Acts of 1992.

4–410.

(b) Notwithstanding any provision of this subtitle, any person discharging or permitting the discharge of oil, or who either actively or passively participates in the discharge or spilling of oil either from a land–based installation, including aboveground or underground storage tanks and vehicles in transit, or from any vessel, barge, ship, or boat of any kind, shall report the incident immediately to the Department **[**of the Environment**]**. **[**He**]** **THE PERSON** shall remain available until clearance to leave is given by the appropriate officials designated by the Department.

DRAFTER'S NOTE:

Error: Stylistic errors in § 4–410(b) of the Environment Article.

Occurred: Ch. 306, Acts of 1987; Ch. 4, Acts of the First Special Session of 1973.

4–412.

(a) (2) If the Department exercises the option provided by paragraph (1)(ii) of this subsection, the alleged violator may request in writing a hearing before the Department not later than ten days after the date that notice of the requirement of the written report is served. The appearance of the alleged violator before the Department under the options provided by paragraph (1)(iii) or **[**(1)**]**(iv) of this

subsection constitutes an administrative hearing, and the party has the right of any party in a contested case provided in §§ 10–205, 10–208, and 10–209 of the State Government Article. If the Department exercises the option provided by **[**paragraphs**]** **PARAGRAPH** (1)(ii), **[**(1)**]**(iii), or **[**(1)**]**(iv) of this subsection, it may not issue an order requiring corrective action to be taken as a result of the alleged violation before expiration of the time set for filing any report and holding any hearing required under these paragraphs. Thereafter, the Department may issue an order requiring necessary corrective action be taken within the time prescribed in the order. A person is not entitled to a hearing before the Department as a result of this order. Notice of a hearing or of a requirement that a written report be filed shall be served on the alleged violator in accordance with the provisions of subsection (c) of this section not less than ten days before the time set for the hearing or filing of a report. Every order the Department issues under the provisions of this section shall be served on the person affected in accordance with the provisions of subsection (c) of this section. The order shall become effective immediately according to its terms upon service.

DRAFTER'S NOTE:

Error: Stylistic errors in § 4–412(a)(2) of the Environment Article.

Occurred: As a result of an improper correction made by the publisher of the Annotated Code under the authority of Ch. 45, § 6, Acts of 2006 during preparation of the 2007 Replacement Volume of the Environment Article.

5–101.

(h) (1) "Pollution" means every contamination or other alteration of the physical, chemical, or biological **[**properties,**]** **PROPERTIES** of any waters of the State.

DRAFTER'S NOTE:

Error: Extraneous comma in § 5–101(h)(1) of the Environment Article.

Occurred: Ch. 488, Acts of 1995.

9–268.

Except for violations of Part III of this subtitle and violations enforced under §§ 9–229(b), 9–267, and 9–268.1 of this subtitle, the provisions of §§ 9–334 through 9–344 **[**of Subtitle 3**]** of this title shall be used and shall apply to enforce violations of:

(1) This subtitle;

(2) Any regulation adopted under this subtitle; or

(3) Any order or permit issued under this subtitle.

DRAFTER'S NOTE:

Error: Stylistic error in § 9–268 of the Environment Article.

Occurred: Ch. 412, Acts of 1988.

15–308.

Upon payment to the State of a certificate fee of $1, each successful applicant shall be entitled to a certificate signed by the examining authority. The certificate shall state the name, age, and residence of the person certified, the position for which **[**he**]** **THE PERSON** qualified, and **[**his**]** **THE PERSON'S** experience. A photograph furnished by the certificate holder shall be mounted on the certificate across which shall be impressed the seal and signature of the examining authority. A certificate may not be transferred. If the certificate is lost or destroyed, the examining authority, when satisfied of the loss or destruction, shall supply the certificate holder with a copy of it, on payment to the State of a **[**50¢**]** fee **OF 50 CENTS**.

DRAFTER'S NOTE:

Error: Stylistic errors in § 15–308 of the Environment Article.

Occurred: Ch. 4, Acts of the First Special Session of 1973.

Article – Estates and Trusts

11–102.

(b) Subject to §§ 4–409 **OF THIS ARTICLE** and 11–103 **OF THIS SUBTITLE**, the common–law rule against perpetuities as now recognized in the State is preserved, but the rule does not apply to the following:

(1) A legacy or inter vivos conveyance having a value of $5,000 or less, or of any burial lot of any value, in trust or otherwise, for the purpose of providing for the perpetual care or keeping in good order and condition, or making repairs to, any lot, vault, mausoleum, or other place of sepulture belonging to any individual or several individuals in any cemetery or graveyard, the lots in which are intended for the burial of members of the family, family connections, relatives, or friends of the owners, or their successors in ownership;

(2) A legacy or inter vivos conveyance intended to transfer assets from any corporation incorporated for charitable objects, to any other charitable corporation on a contingency or future event;

(3) A trust created by an employer as part of a pension, stock bonus, disability, death benefit, profit–sharing, retirement, welfare, or other plan for the exclusive benefit of some or all of the employees of the employer or their beneficiaries, to which contributions are made by the employer or employees, or both the employer and employees, for the purpose of making distributions to or for the benefit of employees or their beneficiaries out of the income or principal or both the income and principal of the trust, or for any other purposes set out in the plan;

(4) A trust for charitable purposes, which shall include all purposes as are within the spirit or letter of the statute of 43 Elizabeth Ch. 4 (1601), commonly known as the statute of charitable uses;

(5) A trust in which the governing instrument states that the rule against perpetuities does not apply to the trust and under which the trustee, or other person to whom the power is properly granted or delegated, has the power under the governing instrument, applicable statute, or common law to sell, lease, or mortgage property for any period of time beyond the period that is required for an interest created under the governing instrument to vest, so as to be good under the rule against perpetuities;

(6) An option of a tenant to renew a lease;

(7) An option of a tenant to purchase all or part of the premises leased by the tenant;

(8) An option of a usufructuary to extend the scope of an easement or profit;

(9) The right of a county, a municipality, a person from whom land is acquired, or the successor–in–interest of a person from whom land is acquired, to acquire land from the State in accordance with § 8–309 of the Transportation Article;

(10) A right or privilege, including an option, warrant, pre–emptive right, right of first refusal, right of first option, right of first negotiation, call right, exchange right, or conversion right, to acquire an interest in a domestic or foreign joint venture, partnership, limited liability partnership, limited partnership, limited liability limited partnership, corporation, cooperative, limited liability company, business trust, or similar enterprise, whether the interest is characterized as a joint venture interest, partnership interest, limited partnership interest, membership interest, security, stock, or otherwise; or

(11) A nondonative property interest as described in § 11–102.1 of this subtitle.

DRAFTER'S NOTE:

Error: Stylistic errors in § 11–102(b) of the Estates and Trusts Article.

Occurred: Ch. 11, Acts of 1974.

Article – Family Law

5–401.

(c) "Eligible child" means a minor as to whom:

(1) (i) guardianship has been awarded to a child placement agency under Subtitle 3 **OR SUBTITLE 3A** of this title; or

DRAFTER'S NOTE:

Error: Omitted cross–reference in § 5–401(c)(1)(i) of the Family Law Article.

Occurred: Ch. 464, Acts of 2005.

5–506.

(e) **[**As provided in Article 49D, § 12 of the Code, the**]** **THE** Department shall cooperate in planning and determining the cost of developing and implementing a system of evaluating the success of services to children in out–of–home placement.

DRAFTER'S NOTE:

Error: Obsolete internal reference in § 5–506(e) of the Family Law Article.

Occurred: As a result of Ch. 3, Acts of 2007.

5–539.

(b) The State Board shall:

(4) make recommendations to the Secretary **OF HUMAN RESOURCES** and the General Assembly regarding:

(i) the response of the State to child abuse and neglect; and

(ii) out–of–home care policies, procedures, and practices; and

(5) subject to § 2–1246 of the State Government Article, report to the General Assembly and the Secretary **OF HUMAN RESOURCES** on the first day of each year on the status of children in out–of–home placement in this State.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 5–539(b)(4) and (5) of the Family Law Article.

Occurred: Ch. 153, Acts of 2007.

5–539.1.

(g) (1) The State Board shall submit, subject to § 2–1246 of the State Government Article, to the General Assembly and the Secretary **OF HUMAN RESOURCES** on or before January 1 of each year and prepare and make available to the public a report containing a summary of its activities, findings, and recommendations under this section.

(h) Within 120 days after receiving the report from the State Board under § 5–539 of this subtitle or the report under subsection (g) of this section, the Secretary **OF HUMAN RESOURCES** shall send a written response to the State Board describing the actions to be taken by the Department in response to the recommendations of the State Board.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 5–539.1(g)(1) and (h) of the Family Law Article.

Occurred: Ch. 153, Acts of 2007.

5–545.

(a) (2) The regulations adopted by the State Board and the Secretary **OF HUMAN RESOURCES** shall require:

(i) at least one review within the first 12 months after a child enters out–of–home placement; and

(ii) subsequent reviews when the court, the local department, an interested person, or the local board raises a concern that the local board may address

through the findings and recommendations required under subsection (c) of this section.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 5–545(a)(2) of the Family Law Article.

Occurred: Ch. 153, Acts of 2007.

5–1306.

The effectiveness of efforts to address the health, mental health, education, and well–being of a child committed to the Department shall be measured by:

(1) the percentage of children in out–of–home placements who received a comprehensive assessment in compliance with federal regulations for the early and **[**periodic,**]** **PERIODIC** screening, diagnosis, and treatment program within 60 days of entering out–of–home placement;

DRAFTER'S NOTE:

Error: Extraneous comma in § 5–1306(1) of the Family Law Article.

Occurred: Chs. 31 and 475, Acts of 2006.

10–113.

(h) The **STATE** Comptroller shall honor refund interception requests in the following order:

(1) a refund interception request to collect an unpaid State, county, or municipal tax;

(2) a refund interception request under this Part II of this subtitle for arrears of support payments;

(3) a refund interception request for converted funds under § 15–122.2 of the Health – General Article; and

(4) any other refund interception request.

DRAFTER'S NOTE:

Error: Omitted word in § 10–113(h) of the Family Law Article.

Occurred: Ch. 296, Acts of 1984.

10–119.

(d) **[**If**]** **IF,** after information about an obligor is supplied to the Motor Vehicle **[**Administration**]** **ADMINISTRATION,** the obligor's arrearage is paid in full, the obligor has demonstrated good faith by paying the ordered amount of support for 6 consecutive months, or the Administration finds that one of the grounds under **[**paragraph (1)(i) of this**]** subsection **(C)(1)(I) OF THIS SECTION** exists, the Administration shall notify the Motor Vehicle Administration to reinstate the obligor's license or privilege to drive.

DRAFTER'S NOTE:

Error: Incorrect punctuation and erroneous internal reference in § 10–119(d) of the Family Law Article.

Occurred: Ch. 491, Acts of 1995; Ch. 509, Acts of 2004.

Article – Health – General

2–206.

(c) Except as expressly provided otherwise, the Board shall hear and determine any appeal from:

(1) A decision of the Secretary or any unit in the Department in a contested case that is subject to judicial review under **[**§ 10–215**]** **§ 10–222** of the State Government Article;

(2) A decision of the Secretary or any unit in the Department that is subject to judicial review under any provision of law other than §§ 10–125**[**, 10–128**]** and **[**10–215**]** **10–222** of the State Government Article; and

(3) An action of or inaction by any unit in the Department for which the Secretary, by rule or regulation, provides for review by the Board.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 2–206(c)(1) and (2) of the Health – General Article.

Occurred: As a result of Ch. 5, § 4, Acts of 1986.

2–207.

(e) (2) Subject to **[**§ 10–212**] § 10–222** of the State Government Article, any party aggrieved by a decision in a contested case for which an appeal is provided to the Board may appeal directly to the Board.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 2–207(e)(2) of the Health – General Article.

Occurred: As a result of Ch. 5, § 4, Acts of 1986.

17–104.

(e) For purposes of workers' compensation law or any other employment benefit that would apply to an individual who is performing a service for a public health laboratory under a mutual aid agreement:

[(i)**] (1)** The individual is considered to have performed that service in the course of employment as a State employee and in the line of duty; and

[(ii)**] (2)** The workers' compensation law or employment benefit of the state that employs the individual shall be provided by that state when an individual is performing a service in another state.

DRAFTER'S NOTE:

Error: Stylistic errors in § 17–104(e) of the Health – General Article.

Occurred: Ch. 74, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Health – General Article is ratified by this Act.

18–207.

(b) (2) A report or information assembled or obtained under this section:

(i) Is confidential and subject to Title 4, Subtitle 1 of this article; and

(ii) Is not a medical record under Title 4, Subtitle 3 of this article, but is subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.

[(iii)**] (3)** This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties pursuant to State or federal law where the Secretary determines that the agency to **[**whom**]** **WHICH** the information is disclosed will maintain the confidentiality of the disclosure.

[(3)**] (4)** The report and any proceedings, records, or files relating to the reports required under this section are not discoverable and are not admissible in evidence in any civil action.

DRAFTER'S NOTE:

Error: Tabulation and grammatical errors in § 18–207(b)(2) of the Health – General Article.

Occurred: Chs. 212 and 213, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Health – General Article is ratified by this Act. Grammatical error occurred in Ch. 79, Acts of 2001.

18–215.

(f) (1) A health care provider or any other person, including an officer or employee of a governmental unit, who knowingly and willfully requests or obtains information on HIV and AIDS developed under § 18–201.1, § 18–202.1, § 18–205, or § 18–207 of this subtitle under false pretenses or through **[**deception**]** **DECEPTION,** on conviction**[**,**]** is subject to:

(i) A fine not exceeding $100,000, imprisonment for not more than 5 years, or both; and

(ii) If the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, a fine not exceeding $250,000, imprisonment for not more than 10 years, or both.

DRAFTER'S NOTE:

Error: Extraneous comma in § 18–215(f)(1) of the Health – General Article.

Occurred: Chs. 212 and 213, Acts of 2007.

19–134.

(e) (3) (ii) On **[**on**]** **OR** before October 1, 2007, to the extent feasible, the system shall incorporate racial and ethnic variations.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 19–134(e)(3)(ii) of the Health – General Article.

Occurred: Ch. 450, Acts of 2006.

Article – Health Occupations

2–305.

(b) The Board may waive any of the qualifications required for a license to practice speech–language pathology or to assist in the practice of speech–language pathology under this title for an individual who:

(3) (i) Holds or has held a national certification in speech–language pathology or as an assistant of **[**speech language**]** **SPEECH–LANGUAGE** pathology from an organization if the organization is recognized by the Board and the qualifications for certification meet the practice requirements established by the regulations adopted by the Board; or

DRAFTER'S NOTE:

Error: Omitted hyphen in § 2–305(b)(3)(i) of the Health Occupations Article.

Occurred: Ch. 391, Acts of 2007.

2–310.1.

(b) The Board may issue a limited license to practice hearing aid dispensing only to an individual who:

(1) Except for completing the requirements under § 2–302.1(c) **OF THIS SUBTITLE**, otherwise qualifies for a license;

DRAFTER'S NOTE:

Error: Stylistic error in § 2–310.1(b)(1) of the Health Occupations Article.

Occurred: Ch. 391, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Health Occupations Article is ratified by this Act.

Title 7.
Morticians and Funeral Directors.

7–101.

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

DRAFTER'S NOTE:

Error: Obsolete title designation immediately preceding § 7–101 of the Health Occupations Article.

Occurred: As a result of Chs. 185 and 186, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Health Occupations Article is validated by this Act.

Subtitle 2. State Board of Morticians and Funeral Directors.

7–201.

There is a State Board of Morticians and Funeral Directors in the Department.

DRAFTER'S NOTE:

Error: Obsolete subtitle designation immediately preceding § 7–201 of the Health Occupations Article.

Occurred: As a result of Chs. 185 and 186, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Health Occupations Article is validated by this Act.

7–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(9) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, **TO** conduct an unannounced inspection of the funeral establishment to determine compliance at that funeral establishment with the Centers for Disease Control's guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Grammatical error in § 7–205(a)(9) of the Health Occupations Article.

Occurred: Ch. 154, Acts of 1992.

7–601.

This title may be cited as the "Maryland Morticians **AND FUNERAL DIRECTORS** Act".

DRAFTER'S NOTE:

Error: Misnomer in § 7–601 of the Health Occupations Article.

Occurred: As a result of Chs. 185 and 186, Acts of 2007.

8–202.

(b) (1) (iii) The organizations developing and submitting the list of nominees for registered nurse members certified in an advanced practice nursing specialty in subparagraph (i) of this paragraph, shall only submit the names of nurses certified in one of the following specialties for each vacancy each term and shall rotate among the specialties with each nomination for a vacancy:

1. Nurse anesthetist;

2. Nurse practitioner;

3. Nurse midwife; **AND**

4. Nurse psychotherapist.

DRAFTER'S NOTE:

Error: Omitted conjunction in § 8–202(b)(1)(iii) of the Health Occupations Article.

Occurred: Ch. 544, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Health Occupations Article is ratified by this Act.

15–206.

(b) (2) (ii) For fiscal 2008, if the Governor does not include in the State budget the funds specified under subparagraph (i) of this paragraph, the Comptroller shall distribute 14 percent of the fees received from the Board to the Office of Student

Financial Assistance to be used as provided under **[**paragraph (i)**]** **SUBPARAGRAPH (I)** of this paragraph.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 15–206(b)(2)(ii) of the Health Occupations Article.

Occurred: Ch. 539, Acts of 2007.

20–101.

[(h) "Subcabinet" means the Subcabinet for Children, Youth, and Families established under Article 49D, § 4.1 of the Code.**]**

DRAFTER'S NOTE:

Error: Obsolete definition in § 20–101(h) of the Health Occupations Article.

Occurred: As a result of Ch. 282, Acts of 2005.

Article – Insurance

14–115.

(d) (11) (iii) A decision by the board to convert to a **[**for profit**]** **FOR–PROFIT** entity under Title 6.5 of the State Government Article may be rejected by any three members of the board.

DRAFTER'S NOTE:

Error: Omitted hyphen in § 14–115(d)(11)(iii) of the Insurance Article.

Occurred: Chs. 356 and 357, Acts of 2003.

14–606.

A discount medical plan organization and a discount drug plan organization may not:

(1) use in their advertisements, marketing material, brochures, and discount cards the term "insurance" except:

(iii) as otherwise provided in this **[**subtitle.**]** **SUBTITLE;**

DRAFTER'S NOTE:

Error: Incorrect punctuation in § 14–606(1)(iii) of the Insurance Article.

Occurred: Ch. 629, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Insurance Article is ratified by this Act.

14–609.

(a) Each discount medical plan organization and each discount drug **PLAN** organization shall provide to a plan member or to a plan member for the member's family a discount card that includes, at a minimum, the following data elements:

(1) a statement that the discount medical plan or discount drug plan is not insurance;

(2) (i) the name or identifying trademark of the discount medical plan organization or the discount drug plan organization; or

(ii) the name or identifying trademark of the provider networks that participate with the discount medical plan or discount drug plan; and

(3) the telephone number that the plan member may call for assistance.

DRAFTER'S NOTE:

Error: Omitted word in § 14–609(a) of the Insurance Article.

Occurred: Ch. 629, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Insurance Article is ratified by this Act.

Article – Labor and Employment

8–607.

(b) (1) Subject to paragraph (2) of this subsection, the taxable wage base is the first $8,500 in wages that:

(iv) an employing unit or predecessor employer or combination of both pays to each employee for covered employment during a calendar year if the payrolls and benefit charges of the predecessor employing unit are transferred to the successor employing unit in accordance **WITH** § 8–613(d) or (e) of this subtitle.

DRAFTER'S NOTE:

Error: Omitted word in § 8–607(b)(1)(iv) of the Labor and Employment Article.

Occurred: Ch. 471, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Labor and Employment Article is ratified by this Act.

9–234.

(r) An individual is a covered employee:

(1) **[**while on duty as a member of a volunteer company in Prince George's County that receives money as provided in § 650 of the Public Local Laws of Prince George's County;

(2)**]** while on duty as a member of the Laurel volunteer rescue squad in Prince George's County; or

[(3)**] (2)** **[**if not covered under item (1) or (2) of this subsection,**]** while a member of a volunteer company in Prince George's County.

DRAFTER'S NOTE:

Error: Obsolete reference in § 9–234(r) of the Labor and Employment Article.

Occurred: As a result of Ch. 8, Acts of 1991. Section 650 of the Code of the Public Local Laws of Prince George's County was transferred to § 11–304 of the Code of Prince George's County, which was repealed by the County Council of Prince George's County in 1984 under Council Bill 59 (Chapter 51). The repeal was not reflected in the 1991 revision of the Labor and Employment Article. Section 9–234(r)(3) includes the class of individuals described under § 9–234(r)(1), rendering § 9–234(r)(1) obsolete. Correction suggested by the Office of the Attorney General, Counsel to the General Assembly.

Article – Natural Resources

4–702.

(a) Except as provided in subsection (b) **OF THIS SECTION**, a person may not buy, sell, ship, transport, or otherwise deal in finfish or shellfish unless the person is licensed by the Department.

DRAFTER'S NOTE:

Error: Stylistic error in § 4–702(a) of the Natural Resources Article.

Occurred: Ch. 579, Acts of 1983.

10–301.1.

(c) (3) Any similar certificate, or hunting license, issued outside the State by a governmental agency, shall be accepted as complying with the requirements of paragraph (1) of **[**the**]** **THIS** subsection, if the privileges are reciprocal for Maryland residents.

DRAFTER'S NOTE:

Error: Stylistic error in § 10–301.1(c)(3) of the Natural Resources Article.

Occurred: Ch. 6, Acts of 1990.

Article – Real Property

3–105.

(d) (3) When the debt secured by a mortgage or deed of trust is paid fully or satisfied, and the canceled check evidencing final payment or, if the canceled check is unavailable, a copy of the canceled check accompanied by a certificate from the institution on which the check was drawn stating that the copy is a true and genuine image of the original check is presented, it may be received by the clerk and indexed and recorded as any other instrument in the nature of a release. The canceled check or copy accompanied by the certificate has the same effect as a release of the property for which the mortgage or deed of trust is the security, as if a release were executed by the mortgagee or named trustees, if:

(i) The party making satisfaction of the mortgage or deed of trust has:

1. Allowed at least a 60–day waiting period, from the date the mortgage or deed of trust is paid fully or is satisfied, for the party satisfied to provide a release suitable for recording;

2. Sent the party satisfied a copy of this section and a notice that, unless a release is provided within 30 days, the party making satisfaction will obtain a release by utilizing the provisions of this paragraph; and

3. Following the mailing of the notice required under **[**sub–subparagraph**]** **ITEM** 2 of this **[**subparagraph**]** **ITEM**, allowed an additional waiting period of at least 30 days for the party satisfied to provide a release suitable for recording; and

DRAFTER'S NOTE:

Error: Stylistic error in § 3–105(d)(3)(i)3 of the Real Property Article.

Occurred: Ch. 656, Acts of 1987.

11–136.

(a) (1) An owner required to give notice under § 11–102.1 of this title shall offer in writing to each tenant entitled to receive that notice the right to purchase that portion of the property occupied by the tenant as his residence. The offer shall be at a price and on terms and conditions at least as favorable as the price, terms, and conditions offered for that portion of the property to any other person during the **[**180 day**]** **180–DAY** period following the giving of the notice required by § 11–102.1 of this title. Settlement cannot be required any earlier than 120 days after the offer is accepted by the tenant.

(e) If the offer terminates, the owner may not offer to sell that unit at a price or on terms and conditions more favorable to the offeree than the price, terms, and conditions offered to the tenant during the **[**180 day**]** **180–DAY** period following the giving of the notice required by § 11–102.1 of this title.

DRAFTER'S NOTE:

Error: Omitted hyphen in § 11–136(a)(1) and (e) of the Real Property Article.

Occurred: Ch. 836, Acts of 1982.

14–108.1.

(a) This section does not apply to:

(3) An action for nonpayment of ground rent under a ground lease on residential property that is or was used, intended to be used, or authorized to be used for four **[**of**]** **OR** fewer dwelling units.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 14–108.1(a)(3) of the Real Property Article.

Occurred: Ch. 286, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement of the Real Property Article is ratified by this Act.

14–125.2.

(a) (3) "Nuisance" means:

(iii) A property to which police or other law enforcement agencies have responded to complaints or calls for service 4 or more times within any **[**30 day**]** **30–DAY** period and that:

1. Negatively impacts the well–being of other residents; and

2. A. Is injurious to public health, safety, or welfare; or

B. Obstructs the reasonable use of property;

DRAFTER'S NOTE:

Error: Omitted hyphen in § 14–125.2(a)(3)(iii) of the Real Property Article.

Occurred: Ch. 336, Acts of 2007.

Article – State Finance and Procurement

7–315.

(f) (2) The Fund shall be expended:

(iv) for energy extension service and **[**low income home energy**]** **LOW–INCOME HOME–ENERGY** programs provided under 42 U.S.C. §§ 7001 through 7011 and 8621 through 8629;

DRAFTER'S NOTE:

Error: Omitted hyphens in § 7–315(f)(2)(iv) of the State Finance and Procurement Article.

Occurred: Ch. 526, Acts of 1989.

18–102.

(a) (1) This title applies to an employee of an employer for the duration of a contract subject to this title if at least one–half of the employee's time during any **[**work week**]** **WORKWEEK** relates to a State contract for services or a subcontract for services under a State contract.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 18–102(a)(1) of the State Finance and Procurement Article.

Occurred: Ch. 284, Acts of 2007.

18–103.

(c) If an employer commits in its bid or proposal to provide health insurance to an employee, either directly or through an employee representative, the employer may:

(2) reduce the wage **RATE** paid under subsection (a) of this section to any employee covered by the insurance by all or part of the hourly cost of the employer's share of the premium for each employee.

DRAFTER'S NOTE:

Error: Omitted word in § 18–103(c)(2) of the State Finance and Procurement Article.

Occurred: Ch. 284, Acts of 2007.

19–107.

(a) Commission staff shall be responsible for directing and conducting investigations of discrimination and retaliation complaints filed under this title in a manner consistent with Article **[**49B § 3, § 10, and § 11**]** **49B, §§ 3, 10, AND 11**.

(d) (2) A protective order issued under paragraph (1) of this subsection may include:

(ii) information disclosed in accordance with § 19–116 of this **[**subtitle**]** **TITLE**.

DRAFTER'S NOTE:

Error: Stylistic error in § 19–107(a) and (d)(2)(ii) of the State Finance and Procurement Article.

Occurred: Chs. 529 and 530, Acts of 2007; Ch. 283, Acts of 2006.

19–110.

(a) When an allegation is sustained by an administrative law judge under this title, the administrative law judge may take additional evidence on the appropriate remedy to be recommended, including evidence relating to factors set forth in § 19–108(e) of this **[**subtitle**]** **TITLE** and any other evidence deemed relevant by the administrative law judge.

DRAFTER'S NOTE:

Error: Stylistic error in § 19–110(a) of the State Finance and Procurement Article.

Occurred: Ch. 283, Acts of 2006.

Article – State Government

2–10A–03.

(b) (2) Of the 15 members:

(i) 1. 2 shall be members of the Senate appointed by the President of the Senate;

2. 2 shall be Delegates appointed by the Speaker **OF THE HOUSE OF DELEGATES**; and

DRAFTER'S NOTE:

Error: Stylistic error in § 2–10A–03(b)(2)(i)2 of the State Government Article.

Occurred: Ch. 55, Acts of 1991.

8–403.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(1) Acupuncture Board, State (§ 1A–201 of the Health Occupations Article: July 1, 2014);

[(2) Adolescent Pregnancy, Governor's Council on (Article 49D, § 21 of the Code: July 1, 2003);**]**

[(3)**] (2)** Amusement Ride Safety, State Advisory Board (§ 3–303 of the Business Regulation Article: July 1, 2013);

[(4)**] (3)** Apprenticeship and Training Council (§ 11–403 of the Labor and Employment Article: July 1, 2013);

[(5)**] (4)** Architects, State Board of (§ 3–201 of the Business Occupations and Professions Article: July 1, 2012);

[(6)**] (5)** Athletic Commission, State (§ 4–201 of the Business Regulation Article: July 1, 2010);

[(7)**] (6)** Audiologists, Hearing Aid Dispensers, and Speech–Language Pathologists, State Board of Examiners for (§ 2–201 of the Health Occupations Article: July 1, 2015);

[(8)**] (7)** Banking Board (§ 2–201 of the Financial Institutions Article: July 1, 2011);

[(9)**] (8)** Barbers, State Board of (§ 4–201 of the Business Occupations and Professions Article: July 1, 2010);

[(10)**] (9)** Boiler Rules, Board of (§ 12–904 of the Public Safety Article: July 1, 2013);

[(11)**] (10)** Cemetery Oversight, Office of (§ 5–201 of the Business Regulation Article: July 1, 2012);

[(12) Children, Youth, and Families, Office for (Article 49D, § 1 of the Code: July 1, 2004);**]**

[(13)**] (11)** Chiropractic Examiners, State Board of (§ 3–201 of the Health Occupations Article: July 1, 2011);

[(14)**] (12)** Collection Agency Licensing Board, State (§ 7–201 of the Business Regulation Article: July 1, 2011);

[(15)**] (13)** Cosmetologists, State Board of (§ 5–201 of the Business Occupations and Professions Article: July 1, 2010);

[(16)**] (14)** Counselors and Therapists, State Board of Professional (§ 17–201 of the Health Occupations Article: July 1, 2008);

[(17)**] (15)** Dental Examiners, State Board of (§ 4–201 of the Health Occupations Article: July 1, 2010);

[(18)**] (16)** Dietetic Practice, State Board of (§ 5–201 of the Health Occupations Article: July 1, 2014);

[(19)**] (17)** Electricians, State Board of Master (§ 6–201 of the Business Occupations and Professions Article: July 1, 2012);

[(20)**] (18)** Electrology Practice Committee (§ 8–6B–05 of the Health Occupations Article: July 1, 2012);

[(21)**] (19)** Elevator Safety Review Board (§§ 12–819 through 12–841 of the Public Safety Article: July 1, 2013);

[(22) Engineers, State Board of Stationary (§ 6.5–201 of the Business Occupations and Professions Article: July 1, 2013);**]**

[(23)**] (20)** Engineers, State Board for Professional (§ 14–201 of the Business Occupations and Professions Article: July 1, 2012);

(21) ENGINEERS, STATE BOARD OF STATIONARY (§ 6.5–201 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE: JULY 1, 2013);

[(24)**] (22)** Environmental Sanitarians, State Board of (§ 11–201 of the Environment Article: July 1, 2012);

[(25)**] (23)** Financial Regulation, Office of the Commissioner of (§ 2–101 of the Financial Institutions Article: July 1, 2011);

[(26)**] (24)** Foresters, State Board of (§ 7–201 of the Business Occupations and Professions Article: July 1, 2014);

[(27)**] (25)** Health Care Commission, Maryland (§ 19–103 of the Health – General Article: July 1, 2017);

[(28)**] (26)** Health Services Cost Review Commission, State (§ 19–202 of the Health – General Article: July 1, 2017);

[(29)**] (27)** Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors, State Board of (§ 9A–201 of the Business Regulation Article: July 1, 2012);

[(30)**] (28)** Home Improvement Commission, Maryland (§ 8–201 of the Business Regulation Article: July 1, 2011);

[(31)**] (29)** Horse Industry Board, Maryland (§ 2–701 of the Agriculture Article: July 1, 2015);

[(32) Individuals with Disabilities, Office for (§ 9–1102 of the State Government Article: July 1, 2014);**]**

[(33)**] (30)** Insurance Administration (§§ 2–101 and 2–103 of the Insurance Article: July 1, 2012);

[(34)**] (31)** Interior Designers, State Board of Certified (§ 8–201 of the Business Occupations and Professions Article: July 1, 2013);

[(35)**] (32)** Labor and Industry, Division of (Title 2 of the Labor and Employment Article: July 1, 2013);

[(36)**] (33)** Land Surveyors, State Board for Professional (§ 15–201 of the Business Occupations and Professions Article: July 1, 2012);

[(37)**] (34)** Landscape Architects, State Board of Examiners of (§ 9–201 of the Business Occupations and Professions Article: July 1, 2012);

[(38)**] (35)** Law Examiners, State Board of (§ 10–201 of the Business Occupations and Professions Article: July 1, 2009);

[(39)**] (36)** Maryland–Bred Race Fund Advisory Committee (§ 11–531 of the Business Regulation Article: July 1, 2010);

[(40)**] (37)** Morticians **AND FUNERAL DIRECTORS**, State Board of (§ 7–201 of the Health Occupations Article: July 1, 2007);

[(41)**] (38)** Nursing, State Board of (§ 8–201 of the Health Occupations Article: July 1, 2012);

[(42)**] (39)** Nursing Home Administrators, State Board of Examiners of (§ 9–201 of the Health Occupations Article: July 1, 2012);

[(43)**] (40)** Occupational Safety and Health Advisory Board (§ 5–302 of the Labor and Employment Article: July 1, 2013);

[(44)**] (41)** Occupational Therapy Practice, State Board of (§ 10–201 of the Health Occupations Article: July 1, 2014);

[(45)**] (42)** Optometry, State Board of Examiners in (§ 11–201 of the Health Occupations Article: July 1, 2012);

[(46)**] (43)** Pharmacy, State Board of (§ 12–201 of the Health Occupations Article: July 1, 2012);

[(47)**] (44)** Physical Therapy Examiners, State Board of (§ 13–201 of the Health Occupations Article: July 1, 2011);

[(48)**] (45)** Physician Assistant Advisory Committee (§ 15–201 of the Health Occupations Article: July 1, 2012);

[(49)**] (46)** Physicians, State Board of (§ 14–201 of the Health Occupations Article: July 1, 2012);

[(50)**] (47)** Pilots, State Board of (§ 11–201 of the Business Occupations and Professions Article: July 1, 2012);

[(51)**] (48)** Plumbing, State Board of (§ 12–201 of the Business Occupations and Professions Article: July 1, 2012);

[(52)**] (49)** Podiatric Medical Examiners, State Board of (§ 16–201 of the Health Occupations Article: July 1, 2011);

[(53)**] (50)** Polysomnography Professional Standards Committee (§ 14–5C–05 of the Health Occupations Article: July 1, 2012);

[(54)**] (51)** Prevailing Wage Rates, Advisory Council on (§ 17–203 of the State Finance and Procurement Article: July 1, 2013);

[(55)**] (52)** Psychologists, State Board of Examiners of (§ 18–201 of the Health Occupations Article: July 1, 2012);

[(56)**] (53)** Public Accountancy, State Board of (§ 2–201 of the Business Occupations and Professions Article: July 1, 2014);

[(57)**] (54)** Racing Commission, State (§ 11–201 of the Business Regulation Article: July 1, 2010);

[(58)**] (55)** Radiation Oncology/Therapy Technologists, Medical Radiation Technologists, and Nuclear Medicine Technologists Advisory Committee (§ 14–5B–05 of the Health Occupations Article: July 1, 2012);

[(59)**] (56)** Real Estate Appraisers and Home Inspectors, State Commission of (§ 16–201 of the Business Occupations and Professions Article: July 1, 2012);

[(60)**] (57)** Real Estate Commission, State (§ 17–201 of the Business Occupations and Professions Article: July 1, 2011);

[(61)**] (58)** Residential Child Care Program Administrators, State Board for Certification of (§ 20–202 of the Health Occupations Article: July 1, 2013);

[(62)**] (59)** Respiratory Care Professional Standards Committee, State (§ 14–5A–05 of the Health Occupations Article: July 1, 2012);

[(63)**] (60)** Security Systems Technicians, Licensing and Regulation of (§ 18–201 of the Business Occupations and Professions Article: July 1, 2015);

[(64)**] (61)** Social Work Examiners, State Board of (§ 19–201 of the Health Occupations Article: July 1, 2013);

[(65)**] (62)** Standardbred Race Fund Advisory Committee, Maryland (§ 11–625 of the Business Regulation Article: July 1, 2010);

[(66)**] (63)** Tobacco Authority (§ 7–201 of the Agriculture Article: July 1, 2010);

[(67)**] (64)** Veterinary Medical Examiners, State Board of (§ 2–302 of the Agriculture Article: July 1, 2010);

[(68)**] (65)** Waterworks and Waste Systems Operators, State Board of (§ 12–201 of the Environment Article: July 1, 2010); and

[(69)**] (66)** Well Drillers, State Board of (§ 13–201 of the Environment Article: July 1, 2010).

DRAFTER'S NOTE:

Error: Obsolete cross–references; misplaced language in § 8–403(b) of the State Government Article.

Occurred: The reference to the Governor's Council on Adolescent Pregnancy in former subsection (b)(2), and the reference to the Office for Children, Youth, and Families, in former subsection (b)(12), were rendered obsolete as a result of Ch. 282, Acts of 2002, which repealed the Council and the Office. The reference to the State Board of Stationary Engineers in former subsection (b)(22) was codified out of proper alphabetical order as a result of Ch. 613, Acts of 2005. The reference to the Office for Individuals with Disabilities in former subsection (b)(32) was rendered obsolete as a result of Ch. 425, Acts of 2004, which repealed the Office. The reference to the State Board of Morticians in former subsection (b)(40) was rendered incorrect as a result of Chs. 185 and 186, Acts of 2007, which renamed the Board.

9–802.

(h) The Subcabinet shall:

(4) collaborate with and review the recommendations of the Maryland Military Installation Council established under Article **[**83A**]** **83A,** § 5–1710.1 of the Code;

DRAFTER'S NOTE:

Error: Omitted comma in § 9–802(h)(4) of the State Government Article.

Occurred: Ch. 6, Acts of 2007.

15–704.

(c) (1) Except as provided in paragraph (2) of this subsection, a report required under this section also shall include the name of each official, employee, or member of the immediate family of an official or employee who has **[**benefitted**]** **BENEFITED** from one or more gifts with a cumulative value of $75 during the reporting period from the regulated lobbyist, regardless of whether the gift:

(i) is attributable to more than one entity; or

(ii) was given in connection with lobbying activity.

DRAFTER'S NOTE:

Error: Misspelling in § 15–704(c)(1) of the State Government Article.

Occurred: Ch. 631, Acts of 2001.

15–705.

(a) In addition to any other report required under this subtitle, a regulated lobbyist shall file a separate report disclosing the name of any State official of the Executive Branch or member of the immediate family of a State official of the Executive Branch who has **[**benefitted**]** **BENEFITED** during the reporting period from gifts of meals or beverages from the regulated lobbyist, whether or not in connection with lobbying activities, allowed under § 15–505(c)(2)(i)1 of this title.

DRAFTER'S NOTE:

Error: Misspelling in § 15–705(a) of the State Government Article.

Occurred: Ch. 631, Acts of 2001.

Article – State Personnel and Pensions

34–101.

(i) Beginning in fiscal year 2009, the Board of Trustees may transfer an amount from the Postretirement Health Benefits Trust Fund to the **[**the**]** Department of Budget and Management, subject to appropriation in the State budget, for the sole purpose of assisting in the payment of the State's postretirement health insurance subsidy.

DRAFTER'S NOTE:

Error: Extraneous article in § 34–101(i) of the State Personnel and Pensions Article.

Occurred: Ch. 355, Acts of 2007. Correction by the publisher of the Annotated Code in the 2007 Supplement to the 2004 Replacement Volume is ratified by this Act.

37–203.1.

(b) (3) (i) 1. This subparagraph applies only to an individual who transferred service credit from a noncontributory system to the State Alternate Contributory Employees' Pension System, the State Alternate Contributory Teachers' Pension System, the State Contributory Employees' Pension **[**System**]** **SYSTEM,** or the

State Contributory Teachers' Pension System and earned any portion of the transferred service credit in a noncontributory system after June 30, 1998.

DRAFTER'S NOTE:

Error: Omitted comma in § 37–203.1(b)(3)(i)1 of the State Personnel and Pensions Article.

Occurred: Ch. 337, Acts of 2007.

Article – Tax – General

2–1103.

After making the distributions required under §§ 2–1101 and 2–1102 of this subtitle, the Comptroller shall distribute:

(1) the remaining motor fuel tax revenue from aviation fuel to the Transportation Trust Fund; and

(2) all remaining motor fuel tax revenue, equal to the average percentage by which the motor fuel tax rate exceeds 18.5 cents per gallon, to the **[**gasoline**]** **GASOLINE** and **[**motor vehicle revenue account**]** **MOTOR VEHICLE REVENUE ACCOUNT** in the Transportation Trust Fund.

DRAFTER'S NOTE:

Error: Capitalization errors in § 2–1103(2) of the Tax – General Article.

Occurred: Ch. 3, Acts of the First Special Session of 1992.

10–207.

(c–1) (1) (i) In this **[**subsection,**]** **SUBSECTION** the following words have the meanings indicated.

DRAFTER'S NOTE:

Error: Extraneous comma in § 10–207(c–1)(1)(i) of the Tax – General Article.

Occurred: Ch. 545, Acts of 1989.

10–211.

(b) (1) If an individual other than one described in **[**subsection (c) of this section**]** **PARAGRAPH (2) OF THIS SUBSECTION** has federal adjusted gross income for the taxable year greater than $100,000, the amount allowed for each exemption under subsection (a)(1) or (2) of this section is limited to:

(i) $2,400 if federal adjusted gross income for the taxable year does not exceed $125,000;

(ii) $1,800 if federal adjusted gross income for the taxable year is greater than $125,000 but not greater than $150,000;

(iii) $1,200 if federal adjusted gross income for the taxable year is greater than $150,000 but not greater than $200,000; and

(iv) $600 if federal adjusted gross income for the taxable year is greater than $200,000.

DRAFTER'S NOTE:

Error: Incorrect cross–reference in § 10–211(b)(1) of the Tax – General Article.

Occurred: Ch. 3, § 1, Acts of the Special Session of 2007.

10–704.3.

(g) If a credit is claimed under this section, the claimant must make the addition required in § 10–205 or § 10–306 of this **[**article**]** **TITLE**.

DRAFTER'S NOTE:

Error: Stylistic error in § 10–704.3(g) of the Tax – General Article.

Occurred: Ch. 370, Acts of 2007.

13–901.

(f) (1) A claim for refund of motor fuel tax may be filed by a claimant who pays the tax on:

(ii) motor fuel, as defined in § 9–101 of this article, that:

3. except for any operation of a motor vehicle on a public highway in the State, is used for a commercial purpose, including:

A. the operation of a vessel used only for commercial purposes;

B. commercial cleaning; **OR**

C. commercial dyeing**[**; or

D. is lost as a result of fire, collision, or other casualty, except loss in ordinary transportation and storage**]**;

4. is used in any of the following vehicles that have pumping or other equipment mechanically or hydraulically driven by the engine that propels the vehicle:

A. a concrete mixing motor vehicle or concrete pump truck;

B. a motor fuel delivery vehicle;

C. a solid waste compacting vehicle;

D. a well–drilling vehicle; or

E. farm equipment registered as a vehicle for highway use that is designed or adapted solely and used exclusively for bulk farm spreading of agriculture liming materials, chemicals, or fertilizer; **[**or**]**

5. is used by a system of transportation based in the State, in a vehicle that is used to provide transportation to elderly or low income individuals, or individuals with disabilities, if the system is operated by a nonprofit organization for purposes relating to the charge for which the nonprofit organization was established and the nonprofit organization:

A. is exempt for federal income tax purposes under § 501(c) of the Internal Revenue Code;

B. is funded to provide transportation to elderly or low income individuals, or individuals with disabilities;

C. receives part of its operating funding from the Maryland Department of Transportation or the Maryland Department of Health and Mental Hygiene;

D. has stated in its charter or bylaws that operating transportation services for elderly or low income individuals, or individuals with disabilities, is one of the purposes for which it was established; and

E. is actively operating a system of transportation for elderly or low income individuals, or individuals with **[**disabilities.**]** **DISABILITIES; OR**

6. IS LOST AS A RESULT OF FIRE, COLLISION, OR OTHER CASUALTY, EXCEPT FOR LOSS IN ORDINARY TRANSPORTATION AND STORAGE.

DRAFTER'S NOTE:

Error: Misplaced language in § 13–901 of the Tax – General Article.

Occurred: Ch. 2, Acts of 1988.

13–1001.

(f) A person who is required to file a public service company franchise tax return and who willfully fails to file the return as required under Title 8 of this article is guilty of a misdemeanor **[**and**]** **AND,** on **[**conviction**]** **CONVICTION,** is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

DRAFTER'S NOTE:

Error: Omitted commas in § 13–1001(f) of the Tax – General Article.

Occurred: Ch. 475, Acts of 2007.

Article – Tax – Property

1–101.

(x) "Principal office of a domestic corporation" means:

(3) if there is no office or place that meets the requirements of item (1) or **[**item**]** (2) of this subsection, the principal office named in the corporation charter or reported to the Department.

DRAFTER'S NOTE:

Error: Stylistic error in § 1–101(x)(3) of the Tax – Property Article.

Occurred: Ch. 5, § 1, Acts of 1989.

7–511.

(b) (1) If **[**the**]** **GARRETT** County reduces or eliminates the percentage of assessment of taxable personal property under subsection (a) of this section, **[**the**]** **GARRETT** County shall submit a copy of the law to the Department.

DRAFTER'S NOTE:

Error: Stylistic error in § 7–511(b)(1) of the Tax – Property Article.

Occurred: Ch. 587, Acts of 1997.

9–246.

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

(2) "Acquired dwelling" means a dwelling:

(i) that was owned by a qualified displaced homeowner;

(ii) that by negotiation or condemnation was acquired from the qualified displaced homeowner for public use by the State or a political subdivision or instrumentality of the State, where the acquiring agency had the power to acquire the dwelling for public use by condemnation; and

(iii) for which the qualified displaced homeowner was eligible for a credit under § 9–105 of this **[**subtitle**]** **TITLE** for the taxable year in which the dwelling was acquired for public use.

(3) "Acquisition year" means the taxable year in which an acquired dwelling was acquired for public use by the State or a political subdivision or instrumentality of the State.

(4) "Dwelling" has the meaning stated in § 9–105 of this **[**subtitle**]** **TITLE**.

(5) "Qualified displaced homeowner" means a property owner who:

(i) qualified for a credit under § 9–105 of this **[**subtitle**]** **TITLE** for an acquired dwelling for the acquisition year; and

(ii) did not receive compensation for increased property taxes resulting from the loss of the credit under § 9–105 of this **[**subtitle**]** **TITLE**.

(6) "Replacement dwelling" means a dwelling that is purchased by a qualified displaced homeowner by the end of the taxable year following the acquisition year.

(7) "Taxable assessment" has the meaning stated in § 9–105 of this **[**subtitle**]** **TITLE**.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 9–246(a)(2)(iii), (4), (5)(i) and (ii), and (7) of the Tax – Property Article. Correction by the publisher of the Annotated Code in the 2007 Replacement Volume is ratified by this Act.

Occurred: Chs. 558 and 559, Acts of 2007.

14–1009.

(a) A person who willfully or with the intent to evade payment of property tax or **TO** prevent the collection of property tax **[**or**]** fails to answer an interrogatory under this article is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 18 months or both.

DRAFTER'S NOTE:

Error: Omitted word and extraneous language in § 14–1009(a) of the Tax – Property Article.

Occurred: Ch. 8, § 2, Acts of 1985.

Article – Transportation

4–312.

(a) (1) Notwithstanding the provisions of § 20 of Section 3 and § 16 of Section 4 of Chapter 608 of the Acts of the General Assembly of 1976, tolls may be continued to be charged on the John F. Kennedy **[**Expressway**]** **MEMORIAL HIGHWAY** and any project constructed under the provisions of § 3 (bridge, tunnel, and motorway revenue bonds) of Chapter 608 of the Acts of the General Assembly of 1976.

DRAFTER'S NOTE:

Error: Misnomer in § 4–312(a)(1) of the Transportation Article.

Occurred: Ch. 941, Acts of 1978.

7–1003.

The Administration shall:

(3) Ensure that the grants awarded under item (2) of this section are distributed among Program applicants to provide door–to–door transportation in the following areas:

(ii) The **[**Washington**]** **WASHINGTON,** D.C. Metropolitan Area;

DRAFTER'S NOTE:

Error: Omitted comma in § 7–1003(3)(ii) of the Transportation Article.

Occurred: Ch. 112, Acts of 2004.

8–402.

(b) All revenues collected from the following, after deductions provided by law, shall be credited to the Gasoline and Motor Vehicle Revenue Account:

(4) The revenue disbursed to this **[**account**]** **ACCOUNT** under § 2–614 of the Tax – General Article; and

DRAFTER'S NOTE:

Error: Capitalization error in § 8–402(b)(4) of the Transportation Article.

Occurred: Ch. 532, Acts of 1980.

21–809.

(a) (4) "Recorded image" means an image recorded by a speed monitoring system:

(ii) Showing:

3. On at least one image or portion of tape, **[**clearly identifying**]** **A CLEAR IDENTIFICATION OF** the registration plate number of the motor vehicle.

DRAFTER'S NOTE:

Error: Grammatical error in § 21–809(a)(4)(ii)3 of the Transportation Article.

Occurred: Ch. 15, Acts of 2006.

23–202.

(b) (1) The emissions **CONTROL** program shall provide for a biennial exhaust emissions test and emissions equipment and misfueling inspection for all vehicles of the 1977 model year and each model year thereafter.

DRAFTER'S NOTE:

Error: Misnomer in § 23–202(b)(1) of the Transportation Article. Correction uses the defined term "emissions control program".

Occurred: Ch. 108, Acts of 1988.

Chapter 636 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding Section 4 of Chapter 345 of the Acts of the General Assembly **OF 2006** or any other provision of law, for fiscal year 2008 only, funds remaining from the Senior Prescription Drug Program that have accrued to the account of the Senior Prescription Drug Assistance Program of the Maryland Health Insurance Plan Fund may be transferred and appropriated in the budget bill or by budget amendment to the Department of Health and Mental Hygiene for the purpose of providing a grant, not to exceed $425,000, to the Maryland Medbank Program under § 15–124.2 of the Health – General Article.

DRAFTER'S NOTE:

Error: Incomplete reference in Section 2 of Ch. 636, Acts of 2007

Occurred: Ch. 636, Acts of 2007

Article 11 – Frederick County

2–13–13.

(a) For the purpose of providing funds for the design, construction, establishment, purchase, or condemnation of water, sewerage, drainage, and solid waste systems in Frederick County pursuant to this chapter, the county is hereby

authorized and empowered to borrow money, from time to time, and to evidence such borrowing by the issuance of bonds, which shall constitute a pledge of the full faith and credit and unlimited taxing power of the county. The authority hereby conferred is subject to the limitation that the county shall issue no amount of bonds pursuant to this section if, by the issuance thereof, the total unpaid bonded indebtedness under this section, less the amount of any sinking funds or reserves for payment of bonds previously issued, shall exceed **[**fifteen (15)**]** **SIX (6)** per centum of the total assessed valuation of all property in Frederick County, subject to unlimited county taxation during the fiscal year of the county most recently concluded.

DRAFTER'S NOTE:

Error: Obsolete percentage stated in § 2–13–13(a) of the Public Local Laws of Frederick County.

Occurred: As a result of Ch. 80, Acts of 2000, which altered the percentage of assessment of real property to which property tax rates apply. Correction recommended by the Office of the County Attorney of Frederick County.

SECTION 2. 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, 2008. Any enactment of the 2008 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 3. 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 4. 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 5. AND BE IT FURTHER ENACTED, That any reference in the Annotated Code of Maryland rendered incorrect or obsolete by an Act of the General Assembly of 2008 shall be corrected by the publishers of the Annotated Code, in consultation with and subject to the approval of the Department of Legislative Services, 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 the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, at the time of publication of a new supplement, new volume, or replacement volume of the Annotated Code, 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 7. 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 8, 2008.

CHAPTER 37

(Senate Bill 620)

AN ACT concerning

Annual Curative Bill

FOR the purpose of generally curing previous Acts of the General Assembly with possible title or other defects; altering the minimum amount of capital investment for restaurant facilities required for the issuance of a certain beer, wine and liquor license for use by a restaurant in Baltimore City or Baltimore County; expanding the relief available for certain discriminatory acts in an administrative proceeding under the Maryland Human Relations Commission law; repealing a certain limitation on certain monetary relief for certain discriminatory acts under the Maryland Human Relations Commission law; requiring the Department of Health and Mental Hygiene to distribute grants to administer the Charles County Prostate Cancer Pilot Program to the local health department or a federally qualified health center in Charles County; providing that the proceedings, records, and files of a certain organization or State agency are confidential and not discoverable or admissible in a civil or criminal action; requiring the Secretary of Health and Mental Hygiene to develop and distribute a certain document that informs employees of forensic

laboratories of certain procedures; requiring a forensic laboratory to post the document in a certain place; providing that the dependents of certain individuals eligible for workers' compensation benefits under certain provisions of law are entitled to receive workers' compensation benefits in addition to certain retirement benefits, subject to a certain limitation; requiring the Governor to make certain appointments on or before a certain date; requiring the Washington County Commissioners to present a certain plan to the members of the General Assembly representing the county on or before a certain date; requiring the plan to establish certain goals; 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 or other defects in order to validate those Acts.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–102(b–3A)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article 49B – Human Relations Commission
Section 11
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article 83A – Department of Business and Economic Development
Section 5–1805(a) and (b)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 18–301
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–2606, 17–2A–03(c), and 17–2A–10(d) and (e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–316(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–503
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Chapter 46 of the Acts of the General Assembly of 2006, as amended by Chapter 86 of the Acts of the General Assembly of 2007
Section 1(3) Item ZA02(AS)

BY repealing and reenacting, without amendments,
Chapter 147 of the Acts of the General Assembly of 2007
Section 2

BY repealing and reenacting, without amendments,
Chapter 392 of the Acts of the General Assembly of 2007
Section 11

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

Article 2B – Alcoholic Beverages

9–102.

(b–3A) Notwithstanding any other provisions of this section in Baltimore City or Baltimore County, the holder of a Class B, (on–sale –– hotels and restaurants) beer, wine and liquor license under this article, by making application in the regular manner and paying the usual fee may obtain an additional Class B, (on–sale –– hotels and restaurants) beer, wine and liquor license for premises used and occupied as a bona fide restaurant, as may be defined by the rules and regulations of the Board of License Commissioners for Baltimore City or Baltimore County, provided that said restaurant has a minimum capital investment of $500,000 for restaurant facilities, which sum shall not include the cost of land or buildings, and has a minimum seating capacity of 125 persons. Nothing contained herein shall permit the issuance of more than three (3) such licenses to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company in Baltimore City

or Baltimore County. The granting of additional licenses hereunder shall be limited and restricted to the purpose of providing alcoholic beverages for consumption on the licensed premises only, with no off–sale privileges to be exercised therewith.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 335 (Senate Bill 571) of the Acts of 2007.

Article 49B – Human Relations Commission

11.

(a) (1) In case of failure to reach an agreement for the remedy and elimination of the acts of discrimination and upon the entry of findings to that effect, the entire file including the complaint and any and all findings made shall be certified to the general counsel of the Commission.

(2) The Executive Director of the Commission shall cause a written notice to be issued and served in the name of the Commission together with a copy of the complaint requiring the respondent to answer the charges of the complaint at a public hearing:

(i) Before an administrative law judge at a time and place certified in the notice; or

(ii) In a civil action elected under § 11A of this subtitle by a complainant.

(3) If a civil action is not elected under § 11A of this subtitle, the case shall be heard by an administrative law judge and the hearing shall be held in the county where the alleged act of discrimination took place.

(4) A transcript of all testimony at the hearing shall be made.

(5) The case in support of the complaint shall be presented at the hearing by the general counsel of the Commission.

(b) (1) The respondent may file a written answer to the complaint and appear at the hearing in person, or otherwise, with or without counsel.

(2) The respondent may submit testimony and shall be fully heard.

(3) The respondent may examine and cross–examine witnesses.

(c) (1) The Commission may permit reasonable amendment to be made to any complaint or answer.

(2) Testimony taken at the hearing shall be under oath and recorded.

(d) (1) In the administration and enforcement of the provisions of these several subtitles, the Commission has power to:

(i) Administer oaths and to issue subpoenas;

(ii) Compel the attendance and testimony of witnesses; and

(iii) Compel the production of books, papers, records and documents relevant or necessary for proceedings under the particular subtitle.

(2) Any subpoena shall be served by:

(i) Certified mail, requesting restricted delivery – Show to whom, date, address of delivery; or

(ii) Personal service of process by:

1. An employee of the Commission;

2. Any person who is not a party and is not less than 18 years of age; or

3. The sheriff or deputy sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation against whom or which the subpoena is issued.

(3) (i) In case of disobedience to a subpoena, the Commission may apply to a circuit court in any county for an order requiring the attendance and testimony of witnesses and the production of books, papers, records, and documents.

(ii) In case of contumacy or refusal to obey a subpoena for the attendance of a witness or the production of books, papers, records, and documents, after notice to the person subpoenaed as a witness or directed to produce books, papers, records and documents, and upon a finding that the attendance and testimony of the witness or the production of the books, papers, records and documents is

relevant or necessary for the proceedings of the Commission, the court may issue an order requiring the attendance and testimony of the witness and the production of the books, papers, records and documents.

(iii) Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(iv) An order issued by the court under this subsection shall be served on the person to whom it is directed by the sheriff or deputy sheriff of the political subdivision where the residence or main office of the person is located.

(e) (1) If, after reviewing all of the evidence, the administrative law judge finds that the respondent has engaged in any discriminatory act within the scope of this article, the administrative law judge shall so state the findings.

(2) The administrative law judge shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the discriminatory acts and to take affirmative action to effectuate the purposes of the particular subtitle.

(3) If the respondent is found to have engaged in or to be engaging in an unlawful employment practice charged in the complaint, the remedy may include:

(i) Enjoining the respondent from engaging in the discriminatory act;

(ii) Ordering appropriate affirmative relief, including the reinstatement or hiring of employees, with or without back pay;

(iii) Awarding compensatory damages; or

(iv) Ordering any other equitable relief the court considers appropriate.

(4) Compensatory damages awarded under this subsection are in addition to:

(i) Back pay or interest on back pay that the complainant may recover under any other provision of law; and

(ii) Any other equitable relief that a complainant may recover under any other provision of law.

(5) The sum of the amount of compensatory damages awarded to each complainant under this section, for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, or nonpecuniary losses, may not exceed:

(i) $50,000 if the respondent employs not fewer than 15 and not more than 100 employees in each of 20 or more calendar weeks in the current or preceding calendar year;

(ii) $100,000, if the respondent employs not fewer than 101 and not more than 200 employees in each of 20 or more calendar weeks in the current or preceding calendar year;

(iii) $200,000, if the respondent employs not fewer than 201 and not more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year; and

(iv) $300,000, if the respondent employs not fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year.

(6) In case of an award of back pay under paragraph (3) of this subsection, interim earning or amounts earned with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

(7) In cases of discrimination other than those involving employment, in addition to the award of civil penalties as specifically provided in this article, nonmonetary relief may be granted to the complainant, except that in no event shall an order be issued that substantially affects the cost, level, or type of any transportation services.

(8) In cases involving transportation services which are supported fully or partially with funds from the Maryland Department of Transportation, no order may be issued which would require costs, level, or type of transportation services different from or in excess of those required to meet U.S. Department of Transportation regulations adopted pursuant to Section 504 of the Rehabilitation Act of 1973, codified as 29 U.S.C. § 794, nor would any such order be enforceable under § 12(a) of this subtitle.

(f) If upon all the evidence, the administrative law judge finds that the respondent has not engaged in any alleged discriminatory act within the scope of the particular subtitle, the administrative law judge shall state the judge's findings of fact and shall similarly issue and file an order dismissing the complaint.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 176 and 177 (Senate Bill 678/House Bill 314) of the Acts of 2007.

Article 83A – Department of Business and Economic Development

5–1805.

(a) There is a Film Production Rebate Fund within the Department.

(b) The Department may use the Fund to:

(1) Grant to a qualified film production entity as a rebate a percentage of the total direct costs of a film production activity paid by the qualified film production entity for a film production activity, as provided under § 5–1803 of this subtitle; and

(2) Pay the administrative, legal, and actuarial expenses of the Fund.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that Art. 83A, § 5–1805, rather than § 5–1805(a) and (b), was being amended.

Occurred: Chapter 87 (House Bill 1185) of the Acts of 2007.

Article – Education

18–301.

(a) There is a Delegate Howard P. Rawlings Program of Educational Excellence Awards in this State that are awarded under this subtitle.

(b) The Program shall consist of the following types of awards:

(1) Guaranteed Access Grants that are awarded to the neediest students to ensure that 100 percent of educational costs, as defined by regulations adopted by the Commission, are paid; and

(2) Educational Assistance Grants that are awarded to low and moderate income students to assist in paying educational costs, as defined by regulations adopted by the Commission.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 18–301 of the Education Article was unamended.

Occurred: Chapter 491 (Senate Bill 834) of the Acts of 2007.

Article – Health – General

13–2606.

(a) The Program shall be funded as provided in the State budget.

(b) The Department shall distribute grants to administer the Program to:

(1) The local health department in Charles County; or

(2) A federally qualified health center in Charles County.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 541 (Senate Bill 283) of the Acts of 2007.

17–2A–03.

(c) Except as provided in subsection (a) of this section, the proceedings, records, and files of an organization or State agency responsible for assuring compliance with this subtitle shall be confidential and not discoverable or admissible in evidence in a civil or criminal action.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 147 (Senate Bill 351) of the Acts of 2007.

17–2A–10.

(d) (1) The Secretary shall develop, through regulation, a document that informs the employees of a forensic laboratory of the procedures to report instances of noncompliance or other violations of the standards and requirements for forensic laboratories in the State.

(2) The Secretary shall distribute the document developed under paragraph (1) of this subsection to forensic laboratories in the State.

(e) A forensic laboratory shall post the document developed under subsection (d) of this section in a conspicuous place.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 147 (Senate Bill 351) of the Acts of 2007.

Article – Health Occupations

14–316.

(e) The Board shall renew the license of each licensee who meets the requirements of this section.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 14–316(e) of the Health Occupations Article was both amended and unamended.

Occurred: Chapter 539 (Senate Bill 255) of the Acts of 2007.

Article – Labor and Employment

9–503.

(a) A paid firefighter, paid fire fighting instructor, or sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life

support unit member who is a covered employee under § 9–234 of this title is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if:

(1) the individual has heart disease, hypertension, or lung disease;

(2) the heart disease, hypertension, or lung disease results in partial or total disability or death; and

(3) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, the individual has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(b) (1) A paid police officer employed by an airport authority, a county, the Maryland–National Capital Park and Planning Commission, a municipality, or the State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if:

(i) the police officer, deputy sheriff, or correctional officer is suffering from heart disease or hypertension; and

(ii) the heart disease or hypertension results in partial or total disability or death.

(2) (i) A deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer is entitled to the presumption under this subsection only to the extent that the individual suffers from heart disease or hypertension that is more severe than the individual's heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(ii) To be eligible for the presumption under this subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer, as a condition of employment, shall submit to a medical examination to determine any heart disease or hypertension condition existing prior to the individual's employment

as a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(c) A paid firefighter, paid fire fighting instructor, or a sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who is a covered employee under § 9–234 of this title is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if the individual:

(1) has leukemia or pancreatic, prostate, rectal, or throat cancer that is caused by contact with a toxic substance that the individual has encountered in the line of duty;

(2) has completed at least 5 years of service as a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member or in a combination of those jobs in the department where the individual currently is employed or serves;

(3) is unable to perform the normal duties of a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member in the department where the individual currently is employed or serves because of the cancer or leukemia disability; and

(4) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(d) A paid law enforcement employee of the Department of Natural Resources who is a covered employee under § 9–207 of this title is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

(1) is suffering from Lyme disease; and

(2) was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(e) (1) Except as provided in paragraph (2) of this subsection, any paid firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire Marshal, paid police officer, paid law enforcement employee of the Department of

Natural Resources, deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince George's County, or Prince George's County correctional officer who is eligible for benefits under subsection (a), (b), (c), or (d) of this section or the dependents of those individuals shall receive the benefits in addition to any benefits that the individual or the dependents of the individual is entitled to receive under the retirement system in which the individual was a participant at the time of the claim.

(2) The benefits received under this title shall be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the weekly salary that was paid to the paid law enforcement employee of the Department of Natural Resources, firefighter, fire fighting instructor, sworn member of the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's County or Montgomery County correctional officer.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 350 and 351 (Senate Bill 752/House Bill 1117) of the Acts of 2007.

Chapter 46 of the Acts of 2006, as amended by Chapter 86 of the Acts of 2007

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

(AS)	Blair Baseball Field Improvements. Provide a grant equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Maryland Community Baseball, Inc. for the planning, design, repair, renovation, construction of improvements, and capital equipping of the Blair Baseball Field, located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act, including funds expended on or after January 1, 2002 (Montgomery County)	50,000

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that Chapter 46 of the Acts of 2006, Section 1(3) Item ZA02, rather than Item ZA02(AS), was being amended.

Occurred: Chapter 86 (House Bill 1184) of the Acts of 2007.

Chapter 147 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall make initial appointments to the Forensic Laboratory Advisory Committee on or before December 1, 2008.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 147 (Senate Bill 351) of the Acts of 2007.

Chapter 392 of the Acts of 2007

SECTION 11. AND BE IT FURTHER ENACTED, That the Washington County Commissioners shall present a plan to implement a County land preservation and landowner equity program to the members of the General Assembly representing Washington County on or before January 1, 2008. The plan shall establish annual goals for financial support and acres of land preserved.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 392 (House Bill 352) of the Acts of 2007.

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 8, 2008.

CHAPTER 38

(Senate Bill 713)

AN ACT concerning

Vehicle Laws – Equipment on Motorcycles – Auxiliary Lighting

FOR the purpose of authorizing the use of certain auxiliary lighting on a motorcycle; and generally relating to motorcycle lighting.

BY ~~repealing and reenacting, with amendments,~~ adding to
Article – Transportation
Section ~~22–224.1~~ 22–221(l)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

~~22–224.1.~~

~~(a) In this section, "motorcycle" includes Class M (multipurpose) vehicles that are designated by the Administrator.~~

~~(b) The headlamp or headlamps on a motorcycle may be of the single–beam or multiple–beam type, but in either event shall comply with the following requirements and limitations:~~

~~(1) The headlamp or headlamps on a motorcycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of:~~

~~(i) Not less than 100 feet, when the motorcycle is operated at any speed of less than 25 miles an hour;~~

~~(ii) Not less than 200 feet, when the motorcycle is operated at a speed of 25 to 34 miles an hour; and~~

~~(iii) Not less than 300 feet, when the motorcycle is operated at a speed of 35 miles an hour or more;~~

~~(2) If the motorcycle is equipped with a multiple–beam headlamp or headlamps, the upper beam shall meet the minimum requirements set forth above and may not exceed the limitations set forth in § 22–222(a)(1) of this subtitle, and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in § 22–222(a)(2) of this subtitle; and~~

~~(3) If the motorcycle is equipped with a single–beam lamp or lamps, the lamp or lamps shall be so aimed that, when the vehicle is loaded, none of the high–intensity portion of light, at a distance of 25 feet ahead, projects higher than the level of the center of the lamp from which it comes.~~

~~**(C) THIS SECTION DOES NOT PROHIBIT THE USE OF THE FOLLOWING NONFLASHING AUXILIARY LIGHTING ON A MOTORCYCLE:**~~

~~**(1) BLUE DOT ILLUMINATION;**~~

~~**(2) STANDARD BULB RUNNING LIGHTS; OR**~~

~~**(3) LIGHT–EMITTING DIODE PODS AND STRIPS ADDED TO PROTECT THE DRIVER.**~~

22–221.

(L) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MOTORCYCLE MAY BE EQUIPPED WITH THE FOLLOWING AUXILIARY LIGHTING:

(I) BLUE DOT ILLUMINATION;

(II) STANDARD BULB RUNNING LIGHTS; OR

(III) LIGHT–EMITTING DIODE PODS AND STRIPS ADDED TO PROTECT THE DRIVER.

(2) (I) LIGHTING UNDER THIS SUBSECTION SHALL BE:

1. NONBLINKING;

2. NONFLASHING;

3. NONOSCILLATING; AND

4. DIRECTED TOWARD THE ENGINE AND THE DRIVE TRAIN OF THE MOTORCYCLE.

(II) LIGHTING UNDER THIS SUBSECTION MAY NOT:

1. BE ATTACHED TO THE WHEELS OF THE MOTORCYCLE; OR

2. EMIT A RED OR BLUE LIGHT.

(III) BLUE DOT ILLUMINATION:

1. MAY BE LOCATED ONLY ON THE REAR OF A MOTORCYCLE AS PART OF OR ADJACENT TO THE REAR BRAKE LIGHT; AND

2. MAY NOT EXCEED THREE–QUARTERS OF AN INCH IN DIAMETER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 39

(House Bill 1168)

AN ACT concerning

Vehicle Laws – Equipment on Motorcycles – Auxiliary Lighting

FOR the purpose of authorizing the use of certain auxiliary lighting on a motorcycle; and generally relating to motorcycle lighting.

BY ~~repealing and reenacting, with amendments,~~ adding to
Article – Transportation
Section ~~22–224.1~~ 22–221(l)
Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

~~22–224.1.~~

~~(a) In this section, "motorcycle" includes Class M (multipurpose) vehicles that are designated by the Administrator.~~

~~(b) The headlamp or headlamps on a motorcycle may be of the single–beam or multiple–beam type, but in either event shall comply with the following requirements and limitations:~~

~~(1) The headlamp or headlamps on a motorcycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of:~~

~~(i) Not less than 100 feet, when the motorcycle is operated at any speed of less than 25 miles an hour;~~

~~(ii) Not less than 200 feet, when the motorcycle is operated at a speed of 25 to 34 miles an hour; and~~

~~(iii) Not less than 300 feet, when the motorcycle is operated at a speed of 35 miles an hour or more;~~

~~(2) If the motorcycle is equipped with a multiple–beam headlamp or headlamps, the upper beam shall meet the minimum requirements set forth above and may not exceed the limitations set forth in § 22–222(a)(1) of this subtitle, and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in § 22–222(a)(2) of this subtitle; and~~

~~(3) If the motorcycle is equipped with a single–beam lamp or lamps, the lamp or lamps shall be so aimed that, when the vehicle is loaded, none of the high–intensity portion of light, at a distance of 25 feet ahead, projects higher than the level of the center of the lamp from which it comes.~~

~~**(C) THIS SECTION DOES NOT PROHIBIT THE USE OF THE FOLLOWING NON–FLASHING AUXILIARY LIGHTING ON A MOTORCYCLE:**~~

~~**(1) BLUE DOT ILLUMINATION;**~~

~~(2) STANDARD BULB RUNNING LIGHTS; OR~~

~~(3) LIGHT–EMITTING DIODE PODS AND STRIPS ADDED TO PROTECT THE DRIVER.~~

22–221.

(L) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MOTORCYCLE MAY BE EQUIPPED WITH THE FOLLOWING AUXILIARY LIGHTING:

(I) BLUE DOT ILLUMINATION;

(II) STANDARD BULB RUNNING LIGHTS; OR

(III) LIGHT–EMITTING DIODE PODS AND STRIPS ADDED TO PROTECT THE DRIVER.

(2) (I) LIGHTING UNDER THIS SUBSECTION SHALL BE:

1. NONBLINKING;

2. NONFLASHING;

3. NONOSCILLATING; AND

4. DIRECTED TOWARD THE ENGINE AND THE DRIVE TRAIN OF THE MOTORCYCLE.

(II) LIGHTING UNDER THIS SUBSECTION MAY NOT:

1. BE ATTACHED TO THE WHEELS OF THE MOTORCYCLE; OR

2. EMIT A RED OR BLUE LIGHT.

(III) BLUE DOT ILLUMINATION:

1. MAY BE LOCATED ONLY ON THE REAR OF A MOTORCYCLE AS PART OF OR ADJACENT TO THE REAR BRAKE LIGHT; AND

2. MAY NOT EXCEED THREE–QUARTERS OF AN INCH IN DIAMETER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 40

(House Bill 87)

AN ACT concerning

District Court – Commissioners – Jurisdiction

FOR the purpose of authorizing a District Court commissioner to exercise the powers of that office in any county to which the commissioner is assigned by the Chief Judge of the District Court or a designee of the Chief Judge of the District Court; authorizing the Chief Judge of the District Court or a designee of the Chief Judge of the District Court to assign a commissioner to serve temporarily in any county; repealing certain limitations on an assignment of a county commissioner; repealing certain provisions relating to the powers of certain administrative or supervisory commissioners in multicounty districts; making a stylistic change; and generally relating to the powers and duties of District Court commissioners.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–607
Annotated Code of Maryland
(2006 Replacement Volume and 2007 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

2–607.

(a) (1) The administrative judge of each district, with the approval of the Chief Judge of the District Court, may appoint the number of commissioners necessary to perform the functions of the office within each county.

(2) In multicounty districts, the administrative judge shall obtain the recommendation of the resident judge in each county as to the number of commissioners required in the county and as to the persons to be appointed.

(b) (1) Commissioners shall be adult residents of the counties in which they serve, but they need not be lawyers.

(2) Each commissioner shall hold office at the pleasure of the Chief Judge of the District Court, and has the powers and duties prescribed by law.

(3) Except without additional compensation, unless otherwise fixed by law, an employee of the District Court, who is an adult, may be granted, in the same manner, commissioner powers and duties in the county where the employee is employed.

(c) (1) A commissioner shall receive applications and determine probable cause for the issuance of charging documents.

(2) A commissioner shall advise arrested persons of their constitutional rights, set bond or commit persons to jail in default of bond or release them on personal recognizance if circumstances warrant, and conduct investigations and inquiries into the circumstances of any matter presented to [him] the commissioner in order to determine if probable cause exists for the issuance of a charging document, warrant, or criminal summons and, in general, perform all the functions of committing magistrates as exercised by the justices of the peace prior to July 5, 1971.

(3) There shall be in each county, at all times, one or more commissioners available for the convenience of the public and police in obtaining charging documents, warrants, or criminal summonses and to advise arrested persons of their rights as required by law.

(4) A commissioner may exercise the powers of office in any county to which the commissioner is assigned**[**:

(i) By the Chief Judge of the District Court, as to assignment to a county in another district that is contiguous to the county in which the commissioner resides; or

(ii) By an administrative commissioner, as to assignment to a county within that district that is contiguous to the county in which the commissioner resides**] BY THE CHIEF JUDGE OF THE DISTRICT COURT OR A DESIGNEE OF THE CHIEF JUDGE OF THE DISTRICT COURT**.

(5) The Chief Judge of the District Court may authorize one or more commissioners to perform the duties of a commissioner regarding persons arrested in a county other than the county in which the commissioner resides and for which the commissioner was appointed when the arrested persons are brought before the commissioner by a peace officer of the jurisdiction in which that arrest was made.

(d) (1) The authority under this subsection applies only to a respondent who is an adult.

(2) A commissioner may issue an interim order for protection of a person eligible for relief in accordance with § 4–504.1 of the Family Law Article or a petitioner in accordance with § 3–1503.1 of this article.

(e) **[**(1)**]** Notwithstanding the residence requirements set out in subsection (b) of this section, the Chief Judge of the District Court **OR A DESIGNEE OF THE CHIEF JUDGE OF THE DISTRICT COURT** may assign a commissioner of the District Court to serve temporarily in **[**a**]** **ANY** county **[**that is contiguous to the commissioner's county of residence.

(2) A designation made under this subsection may only be made in extraordinary circumstances and may not exceed 30 days.

(f) Notwithstanding the residence requirement of subsection (b)(1) of this section, a commissioner who is designated by the Chief Judge of the District Court as the supervising commissioner of a multicounty district is authorized to perform the duties of a commissioner in any county of the multicounty district and to assign any other commissioner from that district to perform duties within any county of that district that is contiguous to the county in which the commissioner resides**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 41

(House Bill 88)

AN ACT concerning

Maryland Uniform Interstate Depositions and Discovery Act

FOR the purpose of enacting the Maryland Uniform Interstate Depositions and Discovery Act; establishing procedures for requesting and issuing certain subpoenas; providing for the service of certain subpoenas; establishing that certain Maryland Rules apply to certain subpoenas; requiring that an application for a protective order or to enforce, quash, or modify certain subpoenas comply with certain rules and statutes and be filed in a certain court; requiring certain consideration to be given in applying and construing this Act; defining certain terms; repealing existing provisions of law relating to foreign depositions; providing for the application of this Act; and generally relating to interstate depositions and discovery.

BY repealing
Article – Courts and Judicial Proceedings
Section 9–401 through 9–403 and the subtitle "Subtitle 4. Foreign Depositions"
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 9–401 through 9–407 to be under the new subtitle "Subtitle 4. Maryland Uniform Interstate Depositions and Discovery Act"
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–401 through 9–403 and the subtitle "Subtitle 4. Foreign Depositions" of Article – Courts and Judicial Proceedings of the Annotated Code of Maryland be repealed.

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

Article – Courts and Judicial Proceedings

SUBTITLE 4. MARYLAND UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT.

9–401.

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

(B) "FOREIGN JURISDICTION" MEANS A STATE OTHER THAN THIS STATE.

(C) "FOREIGN SUBPOENA" MEANS A SUBPOENA ISSUED UNDER AUTHORITY OF A COURT OF RECORD OF A FOREIGN JURISDICTION.

(D) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(E) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(F) "SUBPOENA" MEANS A DOCUMENT, HOWEVER DENOMINATED, ISSUED UNDER AUTHORITY OF A COURT OF RECORD REQUIRING A PERSON TO:

(1) ATTEND AND GIVE TESTIMONY AT A DEPOSITION;

(2) PRODUCE AND PERMIT INSPECTION AND COPYING OF DESIGNATED BOOKS, DOCUMENTS, RECORDS, ELECTRONICALLY STORED INFORMATION, OR TANGIBLE THINGS IN THE POSSESSION, CUSTODY, OR CONTROL OF THE PERSON; OR

(3) PERMIT INSPECTION OF PREMISES UNDER THE CONTROL OF THE PERSON.

9–402.

(A) (1) TO REQUEST ISSUANCE OF A SUBPOENA UNDER THIS SECTION, A PARTY SHALL SUBMIT A FOREIGN SUBPOENA TO A CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH DISCOVERY IS SOUGHT TO BE CONDUCTED IN THIS STATE.

(2) A REQUEST FOR THE ISSUANCE OF A SUBPOENA UNDER THIS SUBTITLE DOES NOT CONSTITUTE AN APPEARANCE IN THE COURTS OF THIS STATE.

(B) WHEN A PARTY SUBMITS A FOREIGN SUBPOENA TO A CLERK OF COURT IN THIS STATE, THE CLERK, IN ACCORDANCE WITH THAT COURT'S PROCEDURE, SHALL PROMPTLY ISSUE A SUBPOENA FOR SERVICE UPON THE PERSON TO WHICH THE FOREIGN SUBPOENA IS DIRECTED.

(C) A SUBPOENA UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) INCORPORATE THE TERMS USED IN THE FOREIGN SUBPOENA; AND

(2) CONTAIN OR BE ACCOMPANIED BY THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF ALL COUNSEL OF RECORD IN THE PROCEEDING TO WHICH THE SUBPOENA RELATES AND OF ANY PARTY NOT REPRESENTED BY COUNSEL.

9–403.

A SUBPOENA ISSUED BY A CLERK OF COURT UNDER § 9–402 OF THIS SUBTITLE SHALL BE SERVED IN COMPLIANCE WITH MARYLAND RULE 2–510.

9–404.

TITLE 2, CHAPTER 400 OF THE MARYLAND RULES AND MARYLAND RULE 2–510 APPLY TO SUBPOENAS ISSUED UNDER § 9–402 OF THIS SUBTITLE.

9–405.

AN APPLICATION TO THE COURT FOR A PROTECTIVE ORDER OR TO ENFORCE, QUASH, OR MODIFY A SUBPOENA ISSUED BY A CLERK OF COURT UNDER § 9–402 OF THIS SUBTITLE SHALL COMPLY WITH THE RULES AND STATUTES OF THIS STATE AND BE SUBMITTED TO THE CIRCUIT COURT FOR THE COUNTY IN WHICH DISCOVERY IS TO BE CONDUCTED.

9–406.

IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

9–407.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act applies to requests for discovery in cases pending on the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 42

(House Bill 113)

AN ACT concerning

Somerset County – Regulation of Dogs and Cats – Violations of Ordinances and Regulations

FOR the purpose of authorizing the County Commissioners of Somerset County to impose civil and criminal penalties for violations of certain regulations relating to dogs and cats; authorizing the County Commissioners of Somerset County to provide that violations of certain dog and cat control ordinances may be prosecuted in a certain manner; and generally relating to ordinances for the regulation of dogs and cats.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 11–504(o)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

11–504.

(o) (1) In addition to and not in substitution for any powers granted under this subtitle, the county commissioners of Dorchester, Garrett, and Somerset counties may by ordinance provide for a comprehensive system for the regulation of dogs and cats within the county, including licensing and control. These regulations may include provision for the impounding and disposal of unlicensed or dangerous dogs and cats and penalties, including **[**in Dorchester County and Garrett County**]** civil or criminal penalties, for violations of any of the provisions of the regulations.

(2) In Dorchester County **[**and**],** Garrett County**, AND SOMERSET COUNTY**, the County Commissioners may provide that a violation of a county dog or cat control ordinance shall be prosecuted by the county in the same manner and to the same extent as provided for municipal infractions under Article 23A, § 3(b) of the Code.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 43

(House Bill 116)

AN ACT concerning

Mental Hygiene – Emergency Evaluation Petitions – Licensed Clinical Marriage and Family Therapists

FOR the purpose of adding licensed clinical marriage and family therapists to the professionals authorized to diagnose a mental disorder for purposes of seeking an emergency evaluation of an individual; authorizing licensed clinical marriage and family therapists to petition for an emergency evaluation and to sign and submit the emergency evaluation to peace officers; and generally relating to licensed clinical marriage and family therapists and emergency evaluation petitions.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 10–601, 10–620, 10–622, 10–623, and 10–624
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

10–601.

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

(b) "Clinical social worker" means an individual who is licensed under Title 19 of the Health Occupations Article to practice clinical social work.

(C) "LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST" MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE 17, SUBTITLE 3A OF THE HEALTH OCCUPATIONS ARTICLE TO PRACTICE CLINICAL MARRIAGE AND FAMILY THERAPY.

[(c)**] (D)** "Licensed clinical professional counselor" means an individual who is licensed under Title 17, Subtitle 3A of the Health Occupations Article to practice clinical professional counseling.

[(d)**] (E)** "Physician" means an individual who is licensed under Title 14 of the Health Occupations Article to practice medicine in this State.

[(e)**] (F)** "Psychologist" means an individual who is:

(1) Licensed under Title 18 of the Health Occupations Article; and

(2) Listed in the National Register of Health Service Providers in Psychology.

10–620.

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

(b) "Court" means a district or circuit court of this State.

(c) "Emergency evaluee" means an individual for whom an emergency evaluation is sought or made under Part IV of this subtitle.

(d) (1) "Emergency facility" means a facility that the Department designates, in writing, as an emergency facility.

(2) "Emergency facility" includes a licensed general hospital that has an emergency room, unless the Department, after consultation with the health officer, exempts the hospital.

(e) (1) "Mental disorder" means the behavioral or other symptoms that indicate:

(i) To a lay petitioner who is submitting an emergency petition, a clear disturbance in the mental functioning of another individual; and

(ii) To the following health professionals doing an examination, at least one mental disorder that is described in the version of the American Psychiatric Association's "Diagnostic and Statistical Manual – Mental Disorders" that is current at the time of the examination:

1. Physician;

2. Psychologist;

3. Clinical social worker;

4. Licensed clinical professional counselor;

5. Clinical nurse specialist in psychiatric and mental health nursing (APRN/PMH); **[**or**]**

6. Psychiatric nurse practitioner (CRNP–PMH)**; OR**

7. LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST.

(2) "Mental disorder" does not include mental retardation.

(f) "Peace officer" means a sheriff, a deputy sheriff, a State police officer, a county police officer, a municipal or other local police officer, or a Secret Service agent who is a sworn special agent of the United States Secret Service or Department of Homeland Security authorized to exercise powers delegated under 18 U.S.C. § 3056.

10–622.

(a) A petition for emergency evaluation of an individual may be made under this section only if the petitioner has reason to believe that the individual:

(1) Has a mental disorder; and

(2) The individual presents a danger to the life or safety of the individual or of others.

(b) (1) The petition for emergency evaluation of an individual may be made by:

(i) A physician, a psychologist, a clinical social worker, a licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, **A LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST,** or a health officer or designee of a health officer who has examined the individual;

(ii) A peace officer who personally has observed the individual or the individual's behavior; or

(iii) Any other interested person.

(2) An individual who makes a petition for emergency evaluation under paragraph (1)(i) or (ii) of this subsection may base the petition on:

(i) The examination or observation; or

(ii) Other information obtained that is pertinent to the factors giving rise to the petition.

(c) (1) A petition under this section shall:

(i) Be signed and verified by the petitioner;

(ii) State the petitioner's:

1. Name;

2. Address; and

3. Home and work telephone numbers;

(iii) State the emergency evaluee's:

1. Name; and

2. Description;

(iv) State the following information, if available:

1. The address of the emergency evaluee; and

2. The name and address of the spouse or a child, parent, or other relative of the emergency evaluee or any other individual who is interested in the emergency evaluee;

(v) If the individual who makes the petition for emergency evaluation is an individual authorized to do so under subsection (b)(1)(i) of this section, contain the license number of the individual;

(vi) Contain a description of the behavior and statements of the emergency evaluee or any other information that led the petitioner to believe that the emergency evaluee has a mental disorder and that the individual presents a danger to the life or safety of the individual or of others; and

(vii) Contain any other facts that support the need for an emergency evaluation.

(2) The petition form shall contain a notice that the petitioner:

(i) May be required to appear before a court; and

(ii) Makes the statements under penalties of perjury.

(d) (1) A petitioner who is a physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, **LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST,** health officer, or designee of a health officer shall give the petition to a peace officer.

(2) The peace officer shall explain to the petitioner:

(i) The serious nature of the petition; and

(ii) The meaning and content of the petition.

10–623.

(a) If the petitioner under Part IV of this subtitle is not a physician, a psychologist, a clinical social worker, a licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse

practitioner, **A LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST,** a health officer or designee of a health officer, or a peace officer, the petitioner shall present the petition to the court for immediate review.

(b) After review of the petition, the court shall endorse the petition if the court finds probable cause to believe that the emergency evaluee has shown the symptoms of a mental disorder and that the individual presents a danger to the life or safety of the individual or of others.

(c) If the court does not find probable cause, the court shall indicate that fact on the petition, and no further action may be taken under the petition.

10–624.

(a) (1) A peace officer shall take an emergency evaluee to the nearest emergency facility if the peace officer has a petition under Part IV of this subtitle that:

(i) Has been endorsed by a court within the last 5 days; or

(ii) Is signed and submitted by a physician, a psychologist, a clinical social worker, a licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, **A LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST,** a health officer or designee of a health officer, or a peace officer.

(2) After a peace officer takes the emergency evaluee to an emergency facility, the peace officer need not stay unless, because the emergency evaluee is violent, a physician asks the supervisor of the peace officer to have the peace officer stay.

(3) A peace officer shall stay until the supervisor responds to the request for assistance. If the emergency evaluee is violent, the supervisor shall allow the peace officer to stay.

(4) If a physician asks that a peace officer stay, a physician shall examine the emergency evaluee as promptly as possible.

(b) (1) If the petition is executed properly, the emergency facility shall accept the emergency evaluee.

(2) Within 6 hours after an emergency evaluee is brought to an emergency facility, a physician shall examine the emergency evaluee, to determine whether the emergency evaluee meets the requirements for involuntary admission.

(3) Promptly after the examination, the emergency evaluee shall be released unless the emergency evaluee:

(i) Asks for voluntary admission; or

(ii) Meets the requirements for involuntary admission.

(4) An emergency evaluee may not be kept at an emergency facility for more than 30 hours.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 44

(House Bill 132)

AN ACT concerning

Somerset County – Sale of Charlie Swift Road

FOR the purpose of authorizing the County Roads Board of Somerset County to sell Charlie Swift Road in the Lawson Election District in Somerset County without public sale and when the property is no longer needed for public use; providing for a certain description of the property that is the subject of the sale authorized by this Act; providing that the County Roads Board may arrange the terms, conditions, and amount of consideration for and execute and acknowledge any deeds or instruments necessary to complete any sale made in accordance with this Act; and generally relating to the sale of Charlie Swift Road in Somerset County.

BY adding to
The Public Local Laws of Somerset County
Section 9–118
Article 20 – Public Local Laws of Maryland
(2003 Edition and 2007 Supplement, as amended)

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

Article 20 – Somerset County

9–118.

THE COUNTY ROADS BOARD MAY:

(1) SELL ALL OF THE COUNTY'S RIGHT, TITLE, AND INTEREST IN AND TO THAT CERTAIN PARCEL OF REAL PROPERTY LOCATED IN THE LAWSON ELECTION DISTRICT, SOMERSET COUNTY, BEING ALL THAT PROPERTY KNOWN AS THE ROADBED OF CHARLIE SWIFT ROAD BEGINNING AT THE INTERSECTION OF PLANTATION ROAD AND PROCEEDING SOUTHERLY 258 FEET MORE OR LESS, TO ITS TERMINUS;

(2) EXERCISE THE AUTHORITY UNDER ITEM (1) OF THIS SECTION:

(I) WITHOUT PUBLIC SALE; AND

(II) WHEN THE PROPERTY IS NO LONGER NEEDED FOR PUBLIC USE;

(3) ARRANGE FOR THE TERMS, CONDITIONS, AND AMOUNT OF CONSIDERATION, IF ANY, FOR ANY SALE MADE UNDER ITEM (1) OF THIS SECTION; AND

(4) EXECUTE AND ACKNOWLEDGE ANY DEEDS OR INSTRUMENTS NECESSARY TO COMPLETE ANY SALE MADE IN ACCORDANCE WITH ITEM (1) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 45

(House Bill 133)

AN ACT concerning

Commission to Develop the Maryland Model for Funding Higher Education – Membership and Extension of Sunset

FOR the purpose of modifying the membership of the Commission to Develop the Maryland Model for Funding Higher Education; altering the date by which the Commission must submit a final report to the Governor and General Assembly; extending the termination date of the Commission; making this Act an emergency measure; and generally relating to the Commission to Develop the Maryland Model for Funding Higher Education.

BY repealing and reenacting, with amendments,
Chapter 57 of the Acts of the General Assembly of 2006
Section 3 and 4

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

Chapter 57 of the Acts of 2006

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) There is a Commission to Develop the Maryland Model for Funding Higher Education.

(b) The Commission consists of the following members:

(1) **THE LIEUTENANT GOVERNOR;**

(2) Four members of the Senate of Maryland, appointed by the President of the Senate;

[(2)**] (3)** Four members of the House of Delegates, appointed by the Speaker of the House;

[(3)**] (4)** The Secretary of Higher Education;

[(4)**] (5)** The Secretary of Budget and Management;

[(5)**] (6)** The President of the University of Maryland, College Park, or a designee of that President;

[(6)**] (7)** The President of the University of Maryland University College or a designee of that President;

[(7)**] (8)** The President of the University of Maryland, Baltimore, or a designee of that President;

[(8)**] (9)** The President of Morgan State University or a designee of that President;

[(9)**] (10)** The President of Towson University or a designee of that President;

[(10)**] (11)** The President of The Johns Hopkins University or a designee of that President;

[(11)**] (12)** The President of the Maryland Independent College and University Association;

[(12)**] (13)** The Chancellor of the University System of Maryland or a designee of the Chancellor;

[(13)**] (14)** One community college president, appointed jointly by the President of the Senate and the Speaker of the House;

[(14)**] (15)** The Executive Director of the Maryland Association of Community Colleges;

[(15)**] (16)** Four members of the business community, appointed jointly by the President of the Senate and the Speaker of the House, from among the following organizations:

(i) The Technology Council of Maryland;

(ii) The Maryland Business Roundtable for Education;

(iii) The Maryland Chamber of Commerce;

(iv) The Greater Washington Board of Trades;

(v) The Greater Baltimore Committee; and

(vi) The President's Roundtable, Inc.; and

[(16)**] (17)** Three members of the public, appointed jointly by the President of the Senate and the Speaker of the House, one of whom must have experience in business, finance, or management.

(c) The chairman of the Commission shall be appointed jointly by the President of the Senate and the Speaker of the House.

(d) The Commission shall review the report issued by Van de Water Consulting, Inc., hired by the Maryland Higher Education Commission to develop an effective statewide framework for higher education funding as recommended in the 2004 Maryland State Plan for Postsecondary Education.

(e) The Commission shall review options and make recommendations relating to the establishment of a consistent and stable funding mechanism to ensure accessibility and affordability while at the same time promoting policies to achieve national eminence at all of Maryland's public institutions of higher education.

(f) The Commission shall review options and make recommendations relating to the appropriate level of funding for the State's Historically Black Institutions to ensure that they are comparable and competitive with other public institutions.

(g) The Commission shall **SUBMIT AN INTERIM** report **OF** its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on or before December 31, 2007.

(H) THE COMMISSION SHALL SUBMIT A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 1, 2008.

[(h)**] (I)** The staff for the Commission shall be provided and coordinated by the Department of Legislative Services. The Department of Budget and Management, the Maryland Higher Education Commission, and the University System of Maryland shall also assign staff to assist the Commission.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect July 1, 2006, and shall remain effective for a period of **[**1 year**] 2 YEARS** and **[**10**] 11** months and, at the end of **[**May 1, 2008**] JUNE 1, 2009**, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public healthy 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 8, 2008.

CHAPTER 46

(House Bill 163)

AN ACT concerning

Howard County – Appointed Alcoholic Beverage Hearing Board – Qualifications for Membership

Ho. Co. 15–08

FOR the purpose of altering the qualifications for membership on the Appointed Alcoholic Beverage Hearing Board in Howard County; prohibiting a member of the Hearing Board from being employed by the Howard County government; and generally relating to the Appointed Alcoholic Beverage Hearing Board in Howard County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 15–107.1(a)(1) and (4)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–107.1(d)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

15–107.1.

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

(4) "Hearing Board" means the Appointed Alcoholic Beverage Hearing Board in Howard County.

(d) (1) A Hearing Board member may not hold another public office or be employed by **[**a public body**]** **THE HOWARD COUNTY GOVERNMENT**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 47

(House Bill 167)

AN ACT concerning

Howard County – Installation of Multiuse ~~Septic~~ Sewerage Systems

Ho. Co. 11–08

FOR the purpose of authorizing the governing body of Howard County to enact local laws governing the installation and use of multiuse ~~septic~~ sewerage systems; and generally relating to multiuse ~~septic~~ sewerage systems in Howard County.

BY adding to
Article – Environment
Section 9–1106
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

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

Article – Environment

9–1106.

THE GOVERNING BODY OF HOWARD COUNTY MAY ENACT LOCAL LAWS GOVERNING THE INSTALLATION AND USE OF MULTIUSE ~~SEPTIC~~ SEWERAGE SYSTEMS THAT ARE NOT INCONSISTENT WITH STATE LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 48

(House Bill 170)

AN ACT concerning

Worcester County – Alcoholic Beverages – Service of Notice of Charges

FOR the purpose of requiring in Worcester County that a notice of charges of complaint in measures affecting alcoholic beverages licenses be served in a certain manner; requiring a copy of the notice of charges or a certain letter to be mailed to a licensee under certain circumstances; and generally relating to alcoholic beverages in Worcester County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 10–403(a)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10–403(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

10–403.

(a) (1) The Comptroller or the Board of License Commissioners for any county or Baltimore City, as the case may be, may on its own initiative or upon the

written complaint of ten or more citizens, residents, real estate owners and voters of the precinct in which any licensed place of business is situated or upon the complaint of any deputy or inspector employed by the Comptroller in the administration of this law, or any peace officer, or if the licensee is located within the corporate limits of any municipality, which is within a county, upon complaint of the mayor and council of that municipality, after a hearing upon charges to be framed by the officer or Board, or upon the complaint, notice of which shall be given to the licensee at least ten days before the hearing, revoke or suspend any license issued under the provisions of this article.

(c) (1) This subsection applies only in Baltimore County **AND IN WORCESTER COUNTY**.

(2) Notice of the charges of complaint shall be given to the licensee by personal service on the licensee or any adult employee of the licensee or by any other method of service of notice that is in conformity with Maryland Rules 2–121 and 2–122.

(3) If service of notice is given to an adult employee of the licensee under paragraph (2) of this subsection, a copy of the notice or a letter describing the contents of the notice shall be mailed to the home or business address of the licensee within 72 hours of the day service is given to the adult employee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 49

(House Bill 171)

AN ACT concerning

Worcester County – Alcoholic Beverages Licenses – Fines for Late Renewals

FOR the purpose of specifying that the Worcester County Board of License Commissioners may receive late applications for alcoholic beverages license renewals during a certain month; authorizing the Board to impose a certain fine for late applications for alcoholic beverages licenses; and generally relating to alcoholic beverages licenses in Worcester County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 10–301(a)(1)(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 10–301(t)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

10–301.

(a) (1) (i) Except in Prince George's County, the holder of any expiring license, other than special licenses issued under the provisions of this article, shall, not less than 30 nor more than 60 days before the first day of May of each and every year, file a written application, duly verified by oath, for the renewal of the license with the official authorized to approve the same.

(T) IN WORCESTER COUNTY, THE BOARD OF LICENSE COMMISSIONERS MAY RECEIVE LATE APPLICATIONS DURING APRIL AND FINE THE LICENSEE AN AMOUNT NOT EXCEEDING $50 FOR EACH DAY THE APPLICATION IS LATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 50

(House Bill 173)

AN ACT concerning

Somerset County – Alcoholic Beverages – Death of Licensee

FOR the purpose of adding Somerset County to the list of counties that, on the death of certain alcoholic beverages licensees, issue a license under certain circumstances to the surviving spouse, the surviving partners for the benefit of the partnership, or the senior surviving officer for the benefit of the corporation without further proceedings for the balance of the current license year; and generally relating to alcoholic beverages licensees in Somerset County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10–506(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

10–506.

(b) Notwithstanding any provisions to the contrary in this article, upon the death of any married licensee, or upon the death of any licensee holding that license for the benefit of a partnership or corporation, upon application to the Comptroller or local licensing board, as the case may be, that granted the license, a new license shall be issued to the surviving spouse, the surviving partners for the benefit of the partnership, or the senior surviving officer for the benefit of the corporation without the necessity of any further proceedings for the balance of the current license year. A renewal license may be issued to the surviving spouse or to the surviving members of a partnership or corporation, if they qualify to hold license under this article. The provisions of this subsection apply only in the following subdivisions:

(1) Anne Arundel County;

(2) Baltimore County;

(3) Baltimore City;

(4) Caroline County;

(5) Charles County;

(6) Dorchester County; **[**and**]**

(7) Prince George's County**; AND**

(8) SOMERSET COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 51

(House Bill 180)

AN ACT concerning

Allegany County Planning Commission – Membership

FOR the purpose of increasing the number of members of the Allegany County Planning Commission to nine; and generally relating to the Allegany County Planning Commission.

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 14.01
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article 66B – Land Use

14.01.

(a) This section applies to Allegany County.

(b) The planning commission may consist of **[**seven**]** **NINE** members.

(c) (1) The term of each member is 5 years.

(2) Each member shall serve until a successor is appointed and qualifies.

(3) The terms of two of the members of the planning commission shall be staggered.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 52

(House Bill 198)

AN ACT concerning

Somerset County – Alcoholic Beverages – Licenses, Fees, and Fines

FOR the purpose of authorizing a holder of a Class D beer and light wine license in Somerset County to sell beer and wine for both on and off–sale consumption; altering the fee for a special beer, beer and light wine, or beer, wine and liquor license; altering the maximum fine for a violation of alcoholic beverages laws that is cause for license suspension; and generally relating to alcoholic beverages in Somerset County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 5–401(a)(1) and 7–101(s)(1) and (4)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 5–401(u), 7–101(s)(5)(i), and 16–507(u)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

5–401.

(a) (1) A Class D beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes its holder to keep for sale and to sell beer and light wines at retail, at the place described in the license, for consumption on the premises or elsewhere. The license may not be issued for any drugstore.

(u) **(I)** In Somerset County the annual license fee is $253.

(II) BEER AND WINE MAY BE SOLD FOR BOTH ON– AND OFF–SALE CONSUMPTION.

7–101.

(s) (1) This subsection applies only in Somerset County.

(4) (i) A special beer or beer and light wine license may be issued for up to 7 consecutive days.

(ii) A special beer, wine and liquor license may be issued for up to 14 consecutive days.

(5) (i) The fee for a special beer, beer and light wine, or beer, wine and liquor license is $63 for each license **[**for an initial 2–day period**]** **DAY**.

16–507.

(u) In Somerset County the Board of License Commissioners may impose a fine of not more than **[**$2,000**]** **$4,000** or suspend a license or both for any violation that is cause for suspension under the alcoholic beverage laws affecting Somerset County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 53

(House Bill 214)

AN ACT concerning

Bottled Water – Standard of Identity and Labeling Requirements – Out–of–State Registration of Bottled Water and Soft Drinks

FOR the purpose of requiring bottled water to meet certain federal standards of identity; requiring certain labeling requirements to conform with certain federal regulations; requiring a certain representative of the bottler to renew a waiver of filtration and disinfection treatment by submitting a certain letter to the Department of Health and Mental Hygiene; requiring a certain representative of the bottler to give certain notice to the Department under certain circumstances; repealing the out–of–state registration requirements for bottled water; altering a certain definition; and generally relating to the sale of bottled water and soft drinks in the State.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–301(a) and (k) and 21–336(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–301(b) and (m), 21–336(a), (c), (e)(1), (g), (h), (i), and (k), and 21–336.1
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing
Article – Health – General
Section 21–301(l), 21–331, and 21–336(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Health – General
Section 21–336(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

21–301.

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

(b) (1) "Bottled water" means any water that is sealed in bottles**, PACKAGES,** or other containers **[**for:

(i) Drinking;

(ii) Cooking; or

(iii) Other purposes making it likely that the water will be ingested by human beings.

(2) (i) "Bottled water" may:

1. Include natural or added carbonation; and

2. Be prepared with added flavors, extracts, or essences that are derived from a spice or fruit and that comprise less than 1 percent by weight of the final product; but

(ii) "Bottled water" may not contain any sweetener, acidulent, or additive other than the flavors, extracts, or essences authorized under subparagraph (i) of this paragraph**] AND OFFERED FOR SALE FOR HUMAN CONSUMPTION, INCLUDING BOTTLED MINERAL WATER**.

[(3)**](2)** "Bottled water" does not include:

(i) Soft drinks; or

(ii) A beverage that is labeled "club soda" or "seltzer water".

(k) (1) Except as provided under paragraph (2) of this subsection, "soft drink" means any nonalcoholic beverage.

(2) "Soft drink" does not include:

(i) Apple cider;

(ii) Soft drinks that are manufactured on the premises of a soda fountain and used at that soda fountain; or

(iii) Bottled water.

[(l) "Soft drink registration" means a registration issued by the Department to sell in this State a soft drink that is manufactured outside this State.**]**

[(m)**] (L)** "Surimi" means an intermediate manufactured seafood product derived from minced fish meat, washed to remove water–soluble protein and blood or other undesirable components and mixed with additives to enhance its frozen storage and functional characteristics.

[21–331.

(a) Except as otherwise provided in this subtitle, a soft drink that is manufactured outside this State shall be registered with the Department before any person may sell the soft drink in this State.

(b) To qualify for a soft drink registration, an applicant shall satisfy the Department that the soft drink for which the soft drink registration is bought is manufactured under standards substantially similar to those required of soft drinks manufactured in this State.

(c) To apply for a soft drink registration, the manufacturer of the soft drink or a dealer for the manufacturer shall:

(1) Submit an application to the Department on the form that the Department requires;

(2) List on the application form the flavors of soft drink that the applicant proposes to sell; and

(3) Pay to the Department an inspection fee established by the Secretary under § 2–104 of this article for each flavor.

(d) Before issuing a soft drink registration, the Department may analyze the soft drink identified in the application to determine whether that soft drink meets the requirements for registration.

(e) If the applicant and the soft drink for which the applicant seeks a soft drink registration meet the requirements of this subtitle, the Department shall:

(1) Register the soft drink; and

(2) Issue a soft drink registration certificate to the applicant.

(f) While it is effective, a soft drink registration authorizes the sale in this State of the soft drinks identified in the soft drink registration.**]**

21–336.

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

(2) (i) "Approved**], "APPROVED** source" means a source of water that is:

[1.**] (I)** Sampled and found through laboratory analysis to comply with:

[A.**] 1.** The microbiological standards adopted by the Department, with testing on a monthly basis; and

[B.**] 2.** The chemical and radiological standards adopted by the Department, which shall meet or exceed the standards prescribed by the federal Food and Drug Administration, with testing annually for chemical analyses and once every 4 years for radiological analyses; and

[2.**] (II)** If applicable, constructed and inspected in accordance with regulations adopted by the Department of the Environment under §§ 9–204, 9–1305, and 9–1306 of the Environment Article.

[(ii)**] (2)** "Approved source" includes:

[1.**] (I)** An artesian well;

[2.**] (II)** A drilled well;

[3.**] (III)** A glacier;

[4.**] (IV)** A public water supply;

[5.**] (V)** A spring; and

[6.**] (VI)** A source of mineral water that complies with the standards specified in **[**subparagraph (i)**]** **PARAGRAPH (1)** of this **[**paragraph**]** **SUBSECTION** but fails to meet the standards with respect to those properties of mineral water related to**[**:

A. Limitations**]** **THE LIMITATIONS** on **CHLORIDE, IRON, MANGANESE, SULFATE,** total dissolved solids**, ZINC, OR ANY OTHER EXEMPTIONS LISTED UNDER 21 C.F.R. 165.110[**; and

B. Any maximum contaminant level or quality standard regulated by the United States Environmental Protection Agency only as a secondary standard**]**.

[(iii)**] (3)** The Department may approve a source that does not meet standards regulated by the United States Environmental Protection Agency as a secondary standard if the bottler shows by analysis that a particular treatment used reduces the level of contaminants in the bottled water to a level below the maximum contaminant level.

[(3) (i) "Artesian water" means bottled water from a well in which the static water level rises above the top of the aquifer from which the water is drawn.

(ii) "Artesian water" shall meet all the requirements of natural water.

(4) (i) "Mineral water" means bottled water that:

1. Is obtained from a natural spring or by tapping at least 1 borehole into an underground approved source that is geologically and physically protected; and

2. Is clearly distinguishable from other types of water by its specific content of minerals and trace elements that remain constant in the original state at the point of emergence.

(ii) "Mineral water" shall meet all the requirements of natural water.

(5) (i) "Natural water" means bottled water that is:

1. Derived from an aquifer or a glacier; and

2. Except as related to disinfection purposes, not modified by blending with another type of water or by the addition or deletion of dissolved solids.

(ii) "Natural water" includes:

1. Artesian water;

2. Mineral water;

3. Glacier water;

4. Spring water; and

5. Well water.

(iii) "Natural water" does not include water that is derived from a municipal system or public water supply.

(iv) "Natural water" may be collected by means of pipes, pumps, trucks, tunnels, or other devices.

(6) "Purified water" means bottled water that:

(i) Is produced by distillation, deionization, reverse osmosis, or any other means approved by the Department; and

(ii) Meets all the requirements of the United States Pharmacopoeia definition of purified water.

(7) (i) "Spring water" means bottled water derived from an underground aquifer from which water flows naturally to the surface of the earth.

(ii) "Spring water" shall be collected:

1. At the natural orifice; or

2. If the water retains all of the physical properties of, and the same composition as, water that flows naturally to the surface of the earth, from a borehole near a spring that intercepts the same source of water as the spring.

(iii) "Spring water" shall meet all the requirements of natural water.

(8) (i) "Well water" means bottled water from a hole drilled in the ground to tap the water of an aquifer.

(ii) "Well water" shall meet all the requirements of natural water.**]**

(b) The requirements of this section are in addition to any other provision of law.

(C) ARTESIAN WATER, MINERAL WATER, NATURAL WATER, PURIFIED WATER, SPRING WATER, WELL WATER, AND ANY OTHER TYPE OF BOTTLED WATER SHALL MEET THE REQUIREMENTS OF THE STANDARD OF IDENTITY FOR BOTTLED WATER UNDER 21 C.F.R. 165.110(A).

[(c)**] (D)** (1) **[**Except as authorized under subsection (d) of this section, a**] A** person may not bottle water unless the person is licensed by the Department under § 21–305 of this subtitle.

(2) The Department may not issue a license if the Department determines that the water is:

(i) Not from an approved source; or

(ii) In any way injurious to the public health.

(3) To apply for a license to bottle water, a bottler shall:

(i) Submit an application to the Department on the form that the Department requires;

(ii) List on the application form the types of bottled water that the applicant proposes to bottle; and

(iii) Pay to the Department an annual fee established by the Secretary under § 2–104 of this article.

(4) While it is effective, a license to bottle water authorizes a bottler to bottle and sell in the State the types of bottled water identified in the license.

[(d) (1) Subject to the requirements of subsection (e) of this section, a person may not sell water in this State that was bottled outside this State unless the person bottling the water has registered the water with the Department.

(2) In order to register with the Department, a person shall present to the Department:

(i) A statement of acceptability issued by the appropriate approving authority of the state in which the water is collected, demonstrating that:

1. The source of the water supply and the method of handling the water, as practiced in that state, are not prejudicial to the public health and the method is at least as stringent as those required under this section; and

2. The water is allowed to be sold in the state that issued the statement of acceptability; and

(ii) Any other documents related to public health and safety required of a person applying for a license to bottle water in this State.

(3) The provisions of this subsection do not prevent the Department from prohibiting the use or sale of bottled water shipped from outside this State, if, in the judgment of the Department:

(i) The water is shown by analysis to be unfit for drinking;

(ii) The water has been misbranded under § 21–210 of this title; or

(iii) Its quality in any way is injured by such handling as may be accorded to it after arriving in this State.

(4) The Secretary shall establish an annual out–of–state registration fee under this section in accordance with § 2–104 of this article.**]**

(e) (1) (i) A person who is licensed **[**or registered**]** under this section shall submit to the Department the results of:

1. Annual chemical and radiological analyses of a representative sample of the person's source water and bottled water; and

2. A monthly microbiological analysis of a representative sample of the source water and bottled water.

(ii) The analyses shall demonstrate that the source water and bottled water comply with the chemical, radiological, and microbiological standards adopted by the Department, which shall meet or exceed the standards prescribed by the federal Food and Drug Administration.

(iii) 1. Except as otherwise required by law, mineral water is not subject to**[**:

A. The limitation**]** **THE LIMITATIONS** on **CHLORIDE, IRON, MANGANESE, SULFATE,** total dissolved solids**, ZINC, OR ANY OTHER EXEMPTIONS LISTED** under 21 CFR **[**103.35; or

B. Any maximum contaminant level or quality standard that is not a primary standard for purposes of regulation by the United States Environmental Protection Agency under the Safe Water Drinking Act**] 165.110**.

2. Bottled water may not exceed:

A. 10 parts per billion of total trihalomethanes;

B. 5 parts per billion of lead; or

C. 100 parts per billion of chlorine.

(g) Labeling of the type of bottled water and any additional ingredients, as required under subsection (f) of this section, shall conform to the **[**following requirements:

(1) Artesian water may be labeled "artesian water" or "natural artesian water";

(2) (i) 1. Mineral water may be labeled "mineral water" or "natural mineral water"; but

2. Bottled water to which minerals have been added:

A. Shall be labeled to disclose what minerals were added; and

B. May not be labeled "mineral water"; and

(ii) The total dissolved solids contained in mineral water shall be:

1. Written on the label; and

2. Stated in milligrams per liter;

(3) Purified water shall be labeled "purified water" or by the method of preparation, and the method of preparation shall be stated on the label;

(4) Spring water may be labeled "spring water" or "natural spring water";

(5) Well water may be labeled "well water" or "natural well water";

(6) Bottled water:

(i) May be labeled "naturally carbonated" or "naturally sparkling" if:

1. It contains carbon dioxide that emerges from the source and the water is bottled directly with its entrapped gas; or

2. Carbon dioxide is mechanically separated from the water and is later reintroduced at the same or lower concentration as the concentration that naturally occurs; and

(ii) Shall be labeled "carbonated", "carbonation added", or "sparkling" if it contains carbon dioxide from a manufactured source;

(7) (i) Bottled water may be labeled "drinking water" or "bottled drinking water";

(ii) Except for "purified drinking water", as defined by the United States Pharmacopoeia, at any point during the bottling process, bottled water that is derived from a public drinking water supply, as defined under the Safe Drinking Water Act, shall be labeled "drinking water" or "bottled drinking water", and its approved source shall be stated on the label in a factually accurate manner;

(8) (i) Except as provided under subparagraph (ii) of this paragraph, a licensee or registrant under this section may not label bottled water with a word or a derivative of a word that does not accurately describe the type of bottled water;

(ii) 1. The provisions of subparagraph (i) of this paragraph may not be construed to restrict a word or a derivative of a word that is part of a bottler's trademark, trade name, or company name; but

2. If the word or derivative of a word that is part of the bottler's trademark, trade name, or company name is reasonably construed to mean a type of bottled water, the type of water in the container shall be identified on the same

label in typeface at least as large as the typeface used in the trademark, trade name, or company name;

(9) Bottled water that meets more than 1 definition under subsection (a) of this section may be labeled as any of its applicable types; and

(10) Any additional standards established by the Department**]** **LABELING REQUIREMENTS FOR BOTTLED WATER UNDER 21 C.F.R. 165.110(A)**.

(h) In accordance with regulations adopted by the Department, a person licensed **[**or registered**]** under this section shall establish written procedures and implement those procedures to:

(1) Prevent contamination during the processing, packaging, transportation, or storage of bottled water; and

(2) Recall bottled water when the person, the Department, or any other government agency determines that a supply is injurious in any way to the public health.

(i) The Department may suspend or revoke a license **[**or registration**]** issued under this section if the licensee **[**or registrant**]**:

(1) Violates or fails to satisfy any requirement of this title or any regulation adopted under this title; or

(2) Fraudulently or deceptively obtains a license **[**or registration**]**.

(k) By **[**March 31, 1993**]** **OCTOBER 1, 2008**, the Department shall adopt regulations to implement the provisions of this section.

21–336.1.

(a) Except as permitted under subsection (b) of this section, bottled water shall:

(1) Be obtained from an approved source; and

(2) Undergo:

(i) Ozonation or an equivalent disinfection process approved by the Department; and

(ii) When required by the Department, filtration or any other treatment that is necessary for the water to comply with the standards adopted by the Department under § 21–336(e)(1)(ii) of this subtitle.

(b) The Department may grant to a bottler a waiver of the filtration and disinfection treatment required under subsection (a) of this section if the Department is satisfied that the filtration and disinfection treatment are not necessary to assure that a bottled water product will consistently comply with the microbiological standards under this subtitle.

(c) (1) Based on the bottler's demonstration of long–term baseline microbiological data that monitors the source and the product, the nature and extent of source monitoring, and source protection and bottling sanitation procedures instituted by the bottler, a waiver may be granted if:

(i) The product and source are in compliance with the Codex Alimentarius standard for natural mineral water, CAC/RS 108, as amended, and the requirements under § 21–336(a)(2) and (e) of this subtitle;

(ii) The product and source are in compliance with the Code of Hygienic Practice of the Codex Alimentarius, Alinorm 85/13A, as amended, for the collection, processing, and marketing of natural mineral water; and

(iii) The bottler has submitted a basic hydrogeological survey of the source, a hydrogeological assessment that demonstrates that the source is not under the direct influence of surface water, and an annual sanitary survey, all of which have been prepared by a professionally qualified hydrogeologist and which demonstrate the integrity of the source.

(2) The annual sanitary survey required under paragraph (1)(iii) of this subsection shall include:

(i) Watershed surveillance that includes an inspection of those portions of the drainage area necessary to identify and evaluate actual and probable sources of contamination;

(ii) Evaluation of source construction and protection, and, when appropriate, intake structures and transmission facilities; and

(iii) Evaluation of finished water storage facilities.

(d) Once a waiver has been granted under this section:

(1) A bottler shall **[**submit an annual report to the Department that demonstrates continued compliance of the source and the product with the Codex Alimentarius standards by:

(i) Testing and approval of the source and product at least once every 2 months by the appropriate authority;

(ii) Microbiological testing:

1. On a weekly basis, as described in the Code of Hygienic Practices of the Codex Alimentarius, Alinorm 85/13A, for the collection, processing, and marketing of natural mineral water; and

2. In accordance with the standards described in 21 CFR 103.35; and

(iii) An annual inspection by an independent organization acceptable to the Department that demonstrates compliance with the Code of Hygienic Practices of the Codex Alimentarius, Alinorm 85/13A, and with the requirements of 21 CFR Part 129 for the collection, processing, and marketing of natural mineral water; and**] RENEW THE WAIVER OF THE FILTRATION AND DISINFECTION TREATMENT PROVIDED UNDER SUBSECTION (B) OF THIS SECTION ON AN ANNUAL BASIS IF A CONTINUATION OF OPERATIONS IS DESIRED BY SUBMITTING A LETTER OF COMPLIANCE WITH SUBSECTION (C) OF THIS SECTION FROM A REPRESENTATIVE OF THE BOTTLER TO THE DEPARTMENT.**

(2) THE REPRESENTATIVE OF THE BOTTLER SHALL CERTIFY UNDER PERSONAL KNOWLEDGE AND PENALTY OF PERJURY THAT THE CONDITIONS UNDER SUBSECTION (C) OF THIS SECTION ON WHICH THE WAIVER WAS GRANTED HAVE NOT CHANGED.

(3) THE REPRESENTATIVE OF THE BOTTLER SHALL HAVE A CONTINUING OBLIGATION TO NOTIFY THE DEPARTMENT OF ANY CHANGE OF A CONDITION UNDER SUBSECTION (C) OF THIS SECTION NOT LATER THAN 5 DAYS FROM THE DATE OF THE CHANGE.

[(2)**] (4)** The product shall be bottled:

(i) In an enclosed filling room or chamber that is under positive pressure of filtered purified air; and

(ii) At a facility and with good manufacturing practices that comply with the requirements of 21 CFR Part 129.

(e) If a bottled water product is not in compliance with any requirement under subsection (c) or (d) of this section:

(1) The Department shall revoke the waiver; and

(2) The product shall be subject to the filtration and disinfection treatment requirements under subsection (a) of this section.

(f) Except for filtration and disinfection treatment, this section may not be construed to waive any requirement that is applicable under this subtitle to a bottled water product.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 54

(House Bill 219)

AN ACT concerning

Bedding Law – Repeal

FOR the purpose of repealing the bedding law in the State.

BY repealing
Article – Health – General
Section 24–401 through 24–435 and the subtitle "Subtitle 4. Bedding"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 24–401 through 24–435 and the subtitle "Subtitle 4. Bedding" of Article – Health – General of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 55

(House Bill 223)

AN ACT concerning

Endangered and Threatened Species – Incidental Taking – Delmarva Fox Squirrel

FOR the purpose of authorizing the Secretary of Natural Resources to issue a certain taking permit for the Delmarva fox squirrel if an applicant submits a certain plan and the Secretary makes certain findings; authorizing the Secretary to adopt certain regulations; and generally relating to the establishment of an incidental taking permit for the Delmarva fox squirrel.

BY adding to
Article – Natural Resources
Section 10–2A–05.2
Annotated Code of Maryland
(2007 Replacement Volume)

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

Article – Natural Resources

10–2A–05.2.

(A) THE SECRETARY MAY ISSUE A PERMIT TO AN APPLICANT THAT AUTHORIZES AN INCIDENTAL TAKING OF THE ENDANGERED DELMARVA FOX SQUIRREL IF:

(1) THE APPLICANT SUBMITS A CONSERVATION PLAN TO THE DEPARTMENT THAT SPECIFIES:

(I) THE IMPACT THAT WILL LIKELY RESULT FROM THE INCIDENTAL TAKING;

(II) THE STEPS THAT THE APPLICANT WILL TAKE TO MINIMIZE AND MITIGATE THE IMPACT;

(III) THE FUNDING THAT WILL BE AVAILABLE TO IMPLEMENT THE STEPS;

(IV) THE ALTERNATIVE ACTIONS TO THE INCIDENTAL TAKING THAT THE APPLICANT CONSIDERED AND THE REASONS THAT THE ALTERNATIVES WERE NOT USED; AND

(V) ANY OTHER MEASURES THAT THE SECRETARY REQUIRES AS BEING NECESSARY OR APPROPRIATE FOR THE PURPOSES OF THE PLAN; AND

(2) THE SECRETARY FINDS THAT:

(I) THE INCIDENTAL TAKING WILL NOT APPRECIABLY REDUCE THE LIKELIHOOD OF THE SURVIVAL OR RECOVERY OF THE DELMARVA FOX SQUIRREL IN THE WILD;

(II) THE APPLICANT WILL, TO THE EXTENT PRACTICABLE, MINIMIZE AND MITIGATE THE IMPACTS OF THE INCIDENTAL TAKING;

(III) ADEQUATE FUNDING FOR THE CONSERVATION PLAN IS AVAILABLE AND THE PLAN WILL BE IMPLEMENTED; AND

(IV) THE APPLICANT HAS OBTAINED THE REQUIRED FEDERAL AUTHORIZATION FOR THE INCIDENTAL TAKING OF THE DELMARVA FOX SQUIRREL.

(B) THE SECRETARY MAY ADOPT REGULATIONS TO IMPLEMENT AND ENFORCE THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 56

(House Bill 226)

AN ACT concerning

Department of Natural Resources – Regulation of Bait

FOR the purpose of requiring the Department of Natural Resources to adopt certain regulations regarding bait; repealing a certain bait dealer's license and certain other restrictions and limitations relating to live bait dealers; repealing certain limitations on the amounts and types of bait that may be sold by live bait dealers; and generally relating to the authority of the Department of Natural Resources to regulate bait in the State.

BY adding to
Article – Natural Resources
Section 4–219
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing
Article – Natural Resources
Section 4–11A–19
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Natural Resources

4–219.

THE DEPARTMENT SHALL ADOPT REGULATIONS DEFINING WHICH SPECIES MAY BE HARVESTED, IMPORTED, TRANSPORTED, SOLD, OR USED AS BAIT IN THE STATE.

[4–11A–19.

(a) Any person desiring to sell live bait in Montgomery, Frederick, or Washington county shall apply to a person designated by the Department for a live bait dealer's license. The application shall be in the form the Department prescribes,

and contain an affidavit signed by the applicant that he is a resident of the county. Upon payment by the applicant of an annual fee of $10.50, the designated person may issue a license supplied by the Department to the designated person. As compensation for each bait dealer's license issued, the designated person shall retain 50 cents. Any money collected for license fees during a month shall be forwarded to the Department on the first day of each succeeding month. The Department shall account for the money to the State Treasurer.

(b) A live bait dealer may sell only minnows, chubs measuring less than 6 inches in length, and killifishes and mad toms procured from the waters of the Potomac River. He may not possess more than 750 bait fish of every type at one time. The bait boxes of the live bait dealer shall be open for a Natural Resources police officer to inspect at any reasonable time.

(c) A live bait dealer may not sell more than 35 bait fish to any person in any day. A licensee may not transport bait fish out of the county where purchased or sell it outside that county. A purchaser from the licensee may not resell bait fish but may transport it outside of the county where purchased.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 57

(House Bill 227)

AN ACT concerning

Agriculture – Animal Health – Administrative Penalties

FOR the purpose of altering and extending the authority of the Secretary of Agriculture to impose certain penalties on any person who violates animal health requirements; and generally relating to administrative penalties imposed by the Secretary of the Maryland Department of Agriculture.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 3–116
Annotated Code of Maryland

(2007 Replacement Volume)

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

Article – Agriculture

3–116.

(a) In lieu of or in addition to any penalty provided by this **[**subtitle**]** **TITLE**, the Secretary may impose an administrative penalty on any person who violates any provision of this **[**subtitle**]** **TITLE**.

(b) The penalty imposed under this section may not exceed $10,000.

(c) All penalties collected under this section shall be distributed to the Animal Health Fund established under § 3–117 of this subtitle.

(d) The Secretary shall adopt regulations necessary to implement the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 58

(House Bill 228)

AN ACT concerning

State Board of Veterinary Medical Examiners – Hospital Inspections

FOR the purpose of altering the required frequency for inspections of veterinary hospitals by the State Board of Veterinary Medical Examiners; and generally relating to veterinary hospital inspections.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–304(d)

Annotated Code of Maryland
(2007 Replacement Volume)

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

Article – Agriculture

2–304.

(d) The Board shall inspect every veterinary hospital facility in the State at least once **[**a year**]** **EVERY 2 YEARS**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 59

(House Bill 229)

AN ACT concerning

Fishing – Reciprocal Angler's Licenses

FOR the purpose of clarifying the circumstances under which certain privileges of certain angler's licenses issued by certain other states apply; and generally relating to reciprocal angler's privileges.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–606
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Natural Resources

4–606.

(a) **(1)** A **[**person**]** **RESIDENT OF VIRGINIA** possessing a valid Virginia **[**or West Virginia**]** fishing license issued in that **[**person's**]** **RESIDENT'S** name may fish in nontidal waters of the Potomac River **OPPOSITE THE SHORE OF VIRGINIA** without obtaining a Maryland angler's license.

(2) This ~~**[**~~subsection~~**]**~~ ~~**PARAGRAPH**~~ is only effective if Virginia **[**or West Virginia**]** enters into and maintains **A** reciprocal **[**agreements**]** **AGREEMENT** with the Department, approved by the Secretary, which **[**allow**]** **ALLOWS** a person possessing a valid Maryland angler's license issued in that person's name to fish from the Virginia **[**or West Virginia**]** banks ~~**OPPOSITE THE**~~ ~~**SHORE OF MARYLAND**~~ of the Potomac River **OPPOSITE THE SHORE OF MARYLAND** without acquiring a Virginia **[**or West Virginia**]** fishing license.

~~**(2)**~~ **(B)(1) A RESIDENT OF WEST VIRGINIA POSSESSING A VALID WEST VIRGINIA FISHING LICENSE ISSUED IN THAT RESIDENT'S NAME MAY FISH IN NONTIDAL WATERS OF THE POTOMAC RIVER OPPOSITE THE SHORE OF WEST VIRGINIA, INCLUDING THE NORTH BRANCH OF THE POTOMAC RIVER AND THE JENNINGS RANDOLPH RESERVOIR,** ~~**OPPOSITE THE SHORE OF WEST VIRGINIA**~~ **WITHOUT OBTAINING A MARYLAND ANGLER'S LICENSE.**

(2) THIS ~~**PARAGRAPH**~~ **SUBSECTION IS ONLY EFFECTIVE IF WEST VIRGINIA ENTERS INTO AND MAINTAINS A RECIPROCAL AGREEMENT WITH THE DEPARTMENT, APPROVED BY THE SECRETARY, WHICH ALLOWS A PERSON POSSESSING A VALID MARYLAND ANGLER'S LICENSE ISSUED IN THAT PERSON'S NAME TO FISH FROM THE WEST VIRGINIA BANKS OF THE POTOMAC RIVER OPPOSITE THE SHORE OF MARYLAND, INCLUDING THE NORTH BRANCH OF THE POTOMAC RIVER AND THE JENNINGS RANDOLPH RESERVOIR, WITHOUT ACQUIRING A WEST VIRGINIA FISHING LICENSE.**

~~(b)~~ **(C)(1)** A ~~person~~ **RESIDENT OF PENNSYLVANIA** possessing a valid Pennsylvania fishing license issued in that ~~person's~~ **RESIDENT'S** name may fish in the waters of the Conowingo and Youghiogheny Reservoirs without obtaining a Maryland angler's license.

(2) This subsection is effective only if Pennsylvania first enters into and maintains a reciprocal agreement with the Department, approved by the Secretary, which allows a person possessing a valid Maryland angler's license issued in that person's name to fish on the portion of the Conowingo and Youghiogheny Reservoirs lying within the boundaries of Pennsylvania without acquiring a Pennsylvania fishing license.

~~(c)~~ **(D)** **(1)** **[**The reciprocal fishing privileges granted to persons holding valid fishing licenses from Virginia, West Virginia, and Pennsylvania by this section are valid only for the main stem of the Potomac River and Conowingo and Youghiogheny Reservoirs. A person may not fish in any other Maryland water, including the tributaries of the Potomac River and Conowingo and Youghiogheny Reservoirs, without obtaining an appropriate Maryland fishing license.**]** **THE RECIPROCAL FISHING PRIVILEGES GRANTED BY THIS SECTION TO A PENNSYLVANIA RESIDENT HOLDING A VALID FISHING LICENSE FROM PENNSYLVANIA ARE VALID ONLY FOR THE CONOWINGO AND YOUGHIOGHENY RESERVOIRS.**

(2) THE RECIPROCAL FISHING PRIVILEGES GRANTED BY THIS SECTION TO A WEST VIRGINIA RESIDENT HOLDING A VALID FISHING LICENSE FROM WEST VIRGINIA ARE VALID ONLY FOR THE MAIN STEM OF THE POTOMAC RIVER, THE NORTH BRANCH OF THE POTOMAC RIVER, AND THE JENNINGS RANDOLPH RESERVOIR OPPOSITE THE SHORE OF WEST VIRGINIA.

(3) THE RECIPROCAL FISHING PRIVILEGES GRANTED BY THIS SECTION TO A VIRGINIA RESIDENT HOLDING A VALID FISHING LICENSE FROM VIRGINIA ARE VALID ONLY FOR THE MAIN STEM OF THE POTOMAC RIVER OPPOSITE THE SHORE OF VIRGINIA.

~~(d)~~ **(E)** If a state fails to maintain the reciprocal fishing privileges in accordance with an approved agreement, the Secretary may revoke the reciprocal fishing privileges accorded to those holding licenses issued by that state by publishing a notice of revocation in the Maryland Register and notifying the head of the appropriate licensing agency for that state.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 60

(House Bill 231)

AN ACT concerning

Department of Housing and Community Development – Community Development Administration – Rental Assistance Programs

FOR the purpose of repealing a certain Rental Allowance Program; establishing a certain Rental Allowance Program and certain rental assistance programs in the Department of Housing and Community Development; requiring the Department to administer the Rental Allowance Program to assist certain households under certain circumstances; requiring the Secretary of Housing and Community Development to establish certain eligibility requirements, certain standards for eligible dwelling units, and certain payment amounts under the Rental Allowance Program; prohibiting certain funds appropriated through the Rental Allowance Program from being used for certain other programs; authorizing the Secretary to adopt regulations to carry out the Rental Allowance Program; authorizing the Department ~~of Housing and Community Development~~ to ~~provide financial assistance to~~ establish and administer certain rental assistance programs for certain households; requiring the Secretary ~~of Housing and Community Development~~ to adopt certain ~~regulations and guidelines; authorizing the administration of this Act~~ criteria for certain rental assistance programs; requiring the Department to consult with certain other agencies ~~in establishing rental housing programs~~ under certain circumstances; declaring the intent of the General Assembly; defining a certain term; and generally relating to rental assistance programs ~~within~~ in the Department of Housing and Community Development.

BY repealing
Article – Housing and Community Development
Section 4–1401 through 4–1408 and the subtitle "Subtitle 14. Rental Allowance Program"
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–103
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

BY adding to
Article – Housing and Community Development
Section 4–1401 through ~~4–1405~~ 4–1406 to be under the new subtitle "Subtitle 14. Rental Assistance Programs"
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

Preamble

WHEREAS, The Department of Housing and Community Development provides housing assistance to households at risk of homelessness, persons with disabilities, disaster evacuees, and others with critical or emergency housing needs through various programs and under various statutory provisions; and

WHEREAS, The Department wishes to continue to provide such assistance and to update its programs to ensure it can address the needs of different populations in current and future housing markets; and

WHEREAS, Statutory changes are necessary to clarify the Department's authority and provide flexibility to enable the Department to meet the housing affordability issues confronting Maryland's residents today and tomorrow; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4–1401 through 4–1408 and the subtitle "Subtitle 14. Rental Allowance Program" of Article – Housing and Community Development of the Annotated Code of Maryland be repealed.

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

Article – Housing and Community Development

4–103.

The Division includes:

(1) the Community Development Administration;

(2) the Down Payment and Settlement Expense Loan Program;

(3) the Elderly Rental Housing Program;

(4) federal and State weatherization programs;

(5) the Group Home Financing Program;

(6) the Lead Hazard Reduction Grant Program;

(7) the Lead Hazard Reduction Loan Program;

(8) the local government infrastructure program;

(9) the Maryland Home Financing Program;

(10) the Maryland Housing Rehabilitation Program;

(11) the Neighborhood Housing Services Fund;

(12) the Operating Assistance Grants Demonstration Projects;

(13) the Partnership Rental Housing Program;

(14) the Radium Pilot Grant Program;

(15) the ~~[~~Rental Allowance Program~~]~~ **AND OTHER RENTAL ASSISTANCE PROGRAMS**;

(16) the Rental Housing Production Program; and

(17) the Self–Help Homeownership Technical Assistance Program.

SUBTITLE 14. RENTAL ASSISTANCE PROGRAMS.

4–1401.

IN THIS SUBTITLE, "PROGRAMS" MEANS ~~THE~~ RENTAL ASSISTANCE PROGRAMS OTHER THAN THE RENTAL ALLOWANCE PROGRAM ESTABLISHED UNDER § 4–1403 OF THIS SUBTITLE.

4–1402.

THERE ARE THE RENTAL ALLOWANCE PROGRAM AND OTHER ~~RENTAL ASSISTANCE~~ PROGRAMS IN THE DEPARTMENT.

4–1403.

(A) THE DEPARTMENT SHALL ADMINISTER THE RENTAL ALLOWANCE PROGRAM TO ASSIST LOW–INCOME HOUSEHOLDS THAT ARE HOMELESS OR AT RISK OF BEING HOMELESS BY PROVIDING HOUSING ASSISTANCE PAYMENTS TO OR ON BEHALF OF ELIGIBLE HOUSEHOLDS.

(B) THE SECRETARY SHALL ESTABLISH:

(1) INCOME LIMITS FOR ELIGIBILITY OF LOW–INCOME HOUSEHOLDS NOT EXCEEDING 30% OF THE STATE OR AREA MEDIAN INCOME, WHICHEVER IS HIGHER; AND

(2) MINIMUM STANDARDS FOR ELIGIBLE DWELLING UNITS.

(C) THE SECRETARY SHALL ESTABLISH THE AMOUNT OF PAYMENTS MADE THROUGH THE RENTAL ALLOWANCE PROGRAM, TAKING INTO ACCOUNT FACTORS IDENTIFIED IN § 4–1405(D) OF THIS SUBTITLE.

(D) ELIGIBLE USES OF PAYMENTS MAY INCLUDE RENT, SECURITY DEPOSITS, UTILITIES, AND OTHER HOUSING–RELATED EXPENSES.

(E) THE DEPARTMENT MAY ADMINISTER THE RENTAL ALLOWANCE PROGRAM BY PROVIDING MONTHLY HOUSING ASSISTANCE PAYMENTS TO OR ON BEHALF OF ELIGIBLE HOUSEHOLDS DIRECTLY OR THROUGH POLITICAL SUBDIVISIONS, THEIR LOCAL HOUSING AGENCIES OR DEPARTMENTS, OR NONPROFIT ORGANIZATIONS.

(F) FUNDS APPROPRIATED TO SERVE LOW–INCOME HOUSEHOLDS THROUGH THE RENTAL ALLOWANCE PROGRAM MAY NOT BE USED FOR OTHER PROGRAMS AUTHORIZED UNDER THIS SUBTITLE.

(G) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE RENTAL ALLOWANCE PROGRAM, INCLUDING TIME FRAMES FOR ASSISTANCE AND OTHER CRITERIA THE SECRETARY CONSIDERS APPROPRIATE.

~~**4–1403.**~~ **4–1404.**

THE DEPARTMENT ~~**IS AUTHORIZED TO**~~ **MAY ESTABLISH AND ADMINISTER** ~~**RENTAL ASSISTANCE**~~ **PROGRAMS, INCLUDING PROGRAMS TO ASSIST HOUSEHOLDS THAT:**

(1) ARE HOMELESS OR AT RISK OF HOMELESSNESS;

(2) INCLUDE AN INDIVIDUAL WITH A DISABILITY OR SPECIAL NEED;

(3) HAVE BEEN DISPLACED OR OTHERWISE IMPACTED BY DISASTER; OR

(4) HAVE A CRITICAL OR EMERGENCY HOUSING NEED.

~~4–1404.~~ 4–1405.

(A) THE DEPARTMENT MAY ADMINISTER THE PROGRAMS BY PROVIDING MONTHLY HOUSING ASSISTANCE PAYMENTS TO OR ON BEHALF OF ELIGIBLE HOUSEHOLDS DIRECTLY OR THROUGH POLITICAL SUBDIVISIONS, THEIR LOCAL HOUSING AGENCIES OR DEPARTMENTS, OR NONPROFIT ORGANIZATIONS.

(B) IN ESTABLISHING THE PROGRAMS, THE DEPARTMENT SHALL CONSULT WITH, AS APPROPRIATE:

(1) THE DEPARTMENT OF HUMAN RESOURCES;

(2) THE DEPARTMENT OF DISABILITIES; OR

(3) ANY OTHER UNIT OF STATE OR LOCAL GOVERNMENT.

(C) THE SECRETARY SHALL ESTABLISH CRITERIA FOR THE PROGRAMS, INCLUDING:

(1) INCOME LIMITS FOR ELIGIBILITY OF HOUSEHOLDS;

(2) TIME FRAMES FOR ASSISTANCE;

(3) MONTHLY ASSISTANCE AMOUNTS;

(4) STANDARDS FOR ELIGIBLE DWELLING UNITS, INCLUDING TYPES OF UNITS, INSPECTION STANDARDS, AND RENT LIMITS;

(5) ELIGIBLE USES OF ASSISTANCE PAYMENTS WHICH MAY INCLUDE SECURITY DEPOSITS, UTILITIES, AND OTHER HOUSING RELATED EXPENSES; AND

(6) ANY OTHER CRITERIA THE SECRETARY ~~DEEMS~~ CONSIDERS APPROPRIATE.

(D) IN ESTABLISHING THE PROGRAM CRITERIA, THE SECRETARY MAY CONSIDER FACTORS THAT INCLUDE:

(1) HOUSEHOLD SIZE AND EXPECTED AVERAGE INCOME;

(2) REGIONAL VARIATIONS THROUGHOUT THE STATE;

(3) TYPICAL HOUSING COSTS AND EXPENSES;

(4) RELEVANT STANDARDS AND DEFINITIONS ESTABLISHED FOR STATE AND FEDERAL HOUSING PROGRAMS;

(5) HOUSING NEEDS OF ELIGIBLE HOUSEHOLDS AND THE EXPECTED DURATION OF THE HOUSING NEEDS; AND

(6) EQUITABLE DISTRIBUTION OF FUNDS STATEWIDE.

(E) THE SECRETARY MAY ESTABLISH DIFFERENT CRITERIA FOR DIFFERENT PROGRAMS.

~~4–1405.~~ 4–1406.

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROGRAMS.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) the existing Rental Allowance Program as administered by the Department of Housing and Community Development under the statute repealed ~~by~~ under Section 1 of this Act continue ~~and become the rental assistance program for households that are homeless or at risk of homelessness~~ as the Rental Allowance Program created under § 4–1403 of the Housing and Community Development Article, as enacted ~~by~~ under Section 2 of this Act; and ~~that~~

(2) the Department continue to use the existing network of Rental Allowance Program ~~providers for rental assistance for homeless populations provided those entities are interested in continuing to manage the program~~ administrators.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 61

(House Bill 237)

AN ACT concerning

Maryland AIDS Drug Assistance Program – Special Fund

FOR the purpose of clarifying that the special fund to which certain rebates received by the Department of Health and Mental Hygiene from the AIDS Drug Assistance Program are distributed to a nonlapsing fund, the unspent balances of which do not revert to the General Fund of the State; and generally relating to money to fund the Maryland AIDS Drug Assistance Program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 2–104(j)(2)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

2–104.

(j) (2) Any rebates received by the Department from the Maryland AIDS Drug Assistance Program shall be distributed to a special **NONLAPSING** fund **THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE**, to be used only to fund the Maryland AIDS Drug Assistance Program.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 62

(House Bill 273)

AN ACT concerning

Assistive Technology Guaranteed Loan Program and Fund – Changes

FOR the purpose of changing the name of the Assistive Technology Guaranteed Loan Program to the Assistive Technology Loan Program; changing the name of the Assistive Technology Guaranteed Loan Fund to the Assistive Technology Loan Fund; authorizing the Board of Directors of the Program to elect to provide a borrower with a certain interest rate by either guaranteeing a loan or subsidizing an interest rate under certain circumstances; repealing a certain limitation on the total amount of guarantees provided from the Fund; authorizing the Board to annually set the total aggregate amount of loan guarantees to be provided from the Fund; and generally relating to the Program and the Fund.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 7–601, 7–602, 7–610, 7–611, and 7–613(a)
Annotated Code of Maryland
(2007 Volume)

BY repealing and reenacting, without amendments,
Article – Human Services
Section 7–603, 7–608, and 7–609
Annotated Code of Maryland
(2007 Volume)

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

Article – Human Services

7–601.

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

(b) (1) "Assistive technology" means any item, equipment, or device that is designed to enable an individual with a disability to become more independent or a more productive member of the community with an improved quality of life.

(2) "Assistive technology" includes wheelchairs, motorized scooters, Braille equipment, voice simulation systems, scanners, assistive listening devices, telecommunications devices for the deaf, augmentative communication systems, environmental control systems, computers and adaptive peripherals, building modifications for accessibility, motor vehicles, and vehicle modifications.

(c) "Board" means the Board of Directors of the Program.

(d) "Department" means the Department of Disabilities.

(e) "Fund" means the Assistive Technology **[**Guaranteed**]** Loan Fund.

(f) "Program" means the Assistive Technology **[**Guaranteed**]** Loan Program.

(g) "Secretary" means the Secretary of Disabilities.

7–602.

There is an Assistive Technology **[**Guaranteed**]** Loan Program in the Department.

7–603.

The purpose of the Program is to provide assistance for the purchase of assistive technology.

7–608.

Subject to §§ 7–609(a) and 7–610 of this subtitle, the Board may provide a guarantee of a loan or a subsidy of loan interest for a loan to an individual for the purchase of assistive technology.

7–609.

(a) To apply for a guarantee of a loan or a subsidy of loan interest, an applicant shall submit to the Board an application on the form that the Secretary provides.

(b) The Board shall review the applications for guarantees of loans and subsidies of loan interest and approve or deny them based on information provided to or obtained by the Board.

7–610.

(A) The Board may enter into an agreement with an applicant to guarantee a loan or provide a subsidy for loan interest to the applicant only if the applicant demonstrates:

(1) that the loan to be guaranteed or the subsidy of loan interest will be used to acquire assistive technology;

(2) the ability to repay the loan;

(3) creditworthiness; and

(4) the inability to qualify for a loan from a lending institution without a loan guarantee or a subsidy of loan interest.

(B) THE BOARD MAY ELECT TO PROVIDE THE BORROWER WITH AN INTEREST RATE EQUIVALENT TO THE GUARANTEED RATE BY EITHER GUARANTEEING THE LOAN OR SUBSIDIZING THE INTEREST RATE IF:

(1) A PARTICIPATING LENDING INSTITUTION APPROVES A LOAN WITHOUT THE REQUIREMENT OF A GUARANTEE; AND

(2) THE INTEREST RATE IS HIGHER THAN THE INTEREST RATE OTHERWISE AVAILABLE FOR A GUARANTEED LOAN.

7–611.

(a) Except as provided in this subtitle, the Board and lender jointly shall determine the amount and terms of the guarantee of the loan or the subsidy of loan interest.

(b) The total aggregate amount of a loan guarantee may be up to 100% of the loan.

(c) **[**The total aggregate amount of guarantees provided from the Fund may not at any time exceed the balance available in the Fund.**] THE TOTAL AGGREGATE AMOUNT OF THE LOAN GUARANTEES TO BE PROVIDED FROM THE FUND IN ANY GIVEN YEAR SHALL BE SET ANNUALLY BY THE BOARD IN ACCORDANCE WITH THE REQUIREMENTS OF THE BANKS UNDERWRITING THE LOANS AT ANY GIVEN TIME.**

7–613.

(a) There is an Assistive Technology **[**Guaranteed**]** Loan Fund in the Department.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 63

(House Bill 277)

AN ACT concerning

Maryland Insurance Commissioner – ~~Authority to Act~~ Adoption of Regulations Applicable in an Emergency – Required

FOR the purpose of applying certain provisions of law to ~~managed care organizations and~~ health maintenance organizations; ~~specifying the applicability and purpose of certain provisions of law; authorizing the Maryland Insurance Commissioner to act in a certain manner in an emergency under certain circumstances; authorizing the Commissioner to take certain actions in an emergency; requiring the Commissioner to adopt certain actions as emergency regulations;~~ requiring the Maryland Insurance Commissioner to adopt certain regulations that may be applied in certain emergencies or disasters; authorizing the regulations to apply to certain persons and address certain activities; requiring the Commissioner to issue a certain bulletin under certain circumstances; requiring the Commissioner to provide a copy of the bulletin to a certain emergency contact; authorizing the Commissioner to post a copy of the bulletin on a certain website; and generally relating to the authority of the Maryland Insurance Commissioner.

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 15–102.3(c)~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2007 Supplement)~~

BY adding to
Article – Health – General
Section 19–706(ppp)

Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 2–115
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Health – General

~~15–102.3.~~

~~(c) The provisions of §§~~ **2–115,** ~~4–311, 15–604, 15–605, and 15–1008 of the Insurance Article shall apply to managed care organizations in the same manner they apply to carriers.~~

19–706.

(PPP) THE PROVISIONS OF § 2–115 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

2–115.

~~**(A) THIS SECTION APPLIES TO:**~~

~~**(1) ENTITIES REGULATED UNDER THIS ARTICLE;**~~

~~**(2) ENTITIES SUBJECT TO THE AUTHORITY OF THE COMMISSIONER UNDER THE HEALTH – GENERAL ARTICLE, INCLUDING HEALTH MAINTENANCE ORGANIZATIONS AND MANAGED CARE ORGANIZATIONS; AND**~~

~~**(3) ENTITIES OTHERWISE SUBJECT TO THE AUTHORITY OF THE COMMISSIONER.**~~

~~**(B) IN ORDER TO PROTECT THE GENERAL WELFARE OF THE CITIZENS OF THE STATE AND TO PROTECT INSURANCE BENEFICIARIES, POLICYHOLDERS, INJURED CLAIMANTS, AND OTHERS IN PARTICULAR, IN THE EVENT THAT THE**~~

~~GOVERNOR HAS DECLARED A STATE OF EMERGENCY UNDER § 14–107 OF THE PUBLIC SAFETY ARTICLE, THE COMMISSIONER MAY, BY BULLETIN:~~

~~(1) EXTEND OR SUSPEND ANY TIME FRAME APPLICABLE TO AN ACTION BY THE COMMISSIONER UNDER THIS ARTICLE;~~

~~(2) REQUIRE AN ENTITY REGULATED UNDER THIS ARTICLE TO:~~

~~(I) EXTEND OR SUSPEND ANY TIME FRAME APPLICABLE TO AN ACTION BY A CONSUMER;~~

~~(II) KEEP A POLICY IN FORCE FOR A SPECIFIED PERIOD OF TIME;~~

~~(III) SUSPEND REQUIREMENTS FOR PREAUTHORIZATION OF MEDICAL SERVICES, REFERRALS, AND NETWORK RESTRICTIONS UNDER A HEALTH INSURANCE POLICY OR CONTRACT OR A CONTRACT FOR HEALTH COVERAGE ISSUED BY A HEALTH MAINTENANCE ORGANIZATION; AND~~

~~(IV) TAKE ANY OTHER ACTION CONSIDERED NECESSARY BY THE COMMISSIONER TO MEET THE PURPOSE OF THIS SECTION;~~

~~(3) EXTEND OR SUSPEND ANY TIME FRAME APPLICABLE TO AN ACTION BY A REGULATED ENTITY; AND~~

~~(4) ALLOW A DOMESTIC INSURER TO CONTINUE TO OPERATE ALTHOUGH THE EMERGENCY MAKES IT IMPOSSIBLE OR IMPRACTICABLE FOR THE DOMESTIC INSURER TO CONDUCT ITS BUSINESS IN STRICT ACCORD WITH APPLICABLE PROVISIONS OF LAW, ITS BYLAWS, OR ITS ARTICLES OF INCORPORATION.~~

~~(C) ANY ACTION TAKEN BY THE COMMISSIONER UNDER THIS SECTION THAT EXTENDS BEYOND 60 DAYS SHALL BE ADOPTED AS AN EMERGENCY REGULATION AS SOON AS IS PRACTICABLE.~~

~~(D) THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

(A) THE COMMISSIONER SHALL ADOPT REGULATIONS THAT MAY BE APPLIED WHEN:

(1) THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY FOR THE STATE OR AN AREA WITHIN THE STATE UNDER § 14–107 OF THE PUBLIC SAFETY ARTICLE; OR

(2) THE PRESIDENT OF THE UNITED STATES HAS ISSUED A MAJOR DISASTER OR EMERGENCY DECLARATION FOR THE STATE OR AN AREA WITHIN THE STATE UNDER THE FEDERAL STAFFORD ACT.

(B) THE REGULATIONS MAY:

(1) APPLY TO ANY PERSON REGULATED BY THE COMMISSIONER UNDER THIS ARTICLE OR TITLE 19, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE; AND

(2) ADDRESS:

(I) SUBMISSION OF CLAIMS OR PROOF OF LOSS;

(II) GRACE PERIODS FOR PAYMENT OF PREMIUMS AND PERFORMANCE OF OTHER DUTIES BY INSUREDS;

(III) TEMPORARY POSTPONEMENT OF CANCELLATIONS, NONRENEWALS, PREMIUM INCREASES, OR POLICY MODIFICATIONS;

(IV) PROCEDURES FOR OBTAINING NONELECTIVE HEALTH CARE SERVICES;

(V) TIME RESTRICTIONS FOR FILLING OR REFILLING PRESCRIPTION DRUGS;

(VI) TIME FRAMES APPLICABLE TO AN ACTION BY THE COMMISSIONER UNDER THIS ARTICLE; AND

(VII) ANY OTHER ACTIVITY NECESSARY TO PROTECT THE RESIDENTS OF THE STATE.

(C) (1) TO ACTIVATE A REGULATION ADOPTED UNDER THIS SECTION, THE COMMISSIONER SHALL ISSUE A BULLETIN SPECIFYING:

(I) THAT THE REGULATION IS ACTIVATED;

(II) THE LINE OR LINES OF BUSINESS TO WHICH THE REGULATION APPLIES;

(III) THE GEOGRAPHIC AREAS TO WHICH THE REGULATION APPLIES; AND

(IV) THE PERIOD OF TIME FOR WHICH THE REGULATION APPLIES.

(2) A REGULATION ACTIVATED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT APPLY BEYOND THE DURATION OF, OR THE GEOGRAPHICAL AREA INCLUDED WITHIN, THE GOVERNOR'S OR PRESIDENT'S DECLARATION OF A STATE OF EMERGENCY OR DISASTER.

(3) THE COMMISSIONER:

(I) SHALL PROVIDE A COPY OF THE BULLETIN TO THE EMERGENCY CONTACT DESIGNATED BY THE PERSON SUBJECT TO THE BULLETIN; AND

(II) MAY POST A COPY OF THE BULLETIN ON THE ADMINISTRATION'S WEBSITE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 64

(House Bill 287)

AN ACT concerning

Anne Arundel County – Department of Detention Facilities ~~Correctional Employees~~ Employment Applicants – Polygraph Examinations

FOR the purpose of exempting from the prohibition against an employer requiring or demanding, as a condition of ~~employment, prospective employment, or continued~~ employment, that an individual submit to or take a lie detector or

similar test, individuals who apply for employment ~~or are employed as correctional officers for~~ with the Anne Arundel County Department of Detention Facilities either as correctional officers or in any other capacity that involves direct ~~personal~~ contact with an inmate in the Department; and generally relating to the Anne Arundel County Department of Detention Facilities.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 3–702(a) and (c)
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–702(b)
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

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

Article – Labor and Employment

3–702.

(a) In this section, "employer" means:

(1) a person engaged in a business, industry, profession, trade, or other enterprise in the State;

(2) the State;

(3) a county; and

(4) a municipal corporation in the State.

(b) (1) This section does not apply to the federal government or any of its units.

(2) This section does not apply to an individual who is an employee of or applies for assignment to the Internal Investigative Unit of the Department of Public Safety and Correctional Services.

(3) This section does not apply to an individual who applies for employment or is employed:

(i) as a law enforcement officer, as defined in § 3–101 of the Public Safety Article;

(ii) as an employee of a law enforcement agency of the State, a county, or a municipal corporation;

(iii) as a communications officer of the Calvert County Control Center;

(iv) as a correctional officer of the Calvert County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center;

(v) as a correctional officer of the Washington County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Center; ~~[~~or~~]~~

~~**(VI) AS A CORRECTIONAL OFFICER OF THE ANNE ARUNDEL DEPARTMENT OF DETENTION FACILITIES OR IN ANY OTHER CAPACITY THAT INVOLVES DIRECT PERSONAL CONTACT WITH AN INMATE IN THE DEPARTMENT; OR**~~

~~**[**~~(vi)~~**]**~~ ~~**(VII)**~~ as a correctional officer of:

1. the Baltimore City Jail;

2. the Baltimore County Detention Center;

3. the Cecil County Detention Center;

4. the Charles County Detention Center;

5. the Frederick County Adult Detention Center;

6. the Harford County Detention Center; or

7. the St. Mary's County Detention Center.

(4) This section does not apply to an applicant for employment as a correctional officer with the Department of Corrections for Prince George's County.

(5) THIS SECTION DOES NOT APPLY TO AN APPLICANT FOR EMPLOYMENT WITH THE ANNE ARUNDEL COUNTY DEPARTMENT OF DETENTION FACILITIES:

(I) AS A CORRECTIONAL OFFICER; OR

(II) IN ANY OTHER CAPACITY THAT INVOLVES DIRECT CONTACT WITH AN INMATE IN THE ANNE ARUNDEL COUNTY DEPARTMENT OF DETENTION FACILITIES.

(c) An employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a lie detector or similar test.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 65

(House Bill 305)

AN ACT concerning

Howard County – Enabling Legislation – ~~Septic~~ Sewerage System Performance Bond

Ho. Co. 12–08

FOR the purpose of authorizing the Howard County governing body to require the recipient of a permit to install a multiuse ~~septic~~ sewerage system to post a performance bond before installing the multiuse ~~septic~~ sewerage system; and generally relating to performance bonds and multiuse ~~septic~~ sewerage systems.

BY adding to
Article – Environment
Section ~~9–519~~ 9–1106
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

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

Article – Environment

~~**9–519.**~~ **9–1106.**

THE HOWARD COUNTY GOVERNING BODY MAY REQUIRE THE RECIPIENT OF A PERMIT TO INSTALL A MULTIUSE ~~SEPTIC~~ SEWERAGE SYSTEM TO POST A PERFORMANCE BOND BEFORE INSTALLING THE MULTIUSE ~~SEPTIC~~ SEWERAGE SYSTEM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 66

(House Bill 309)

AN ACT concerning

Department of Housing and Community Development – Disaster Relief Housing Program

FOR the purpose of establishing a Disaster Relief Housing Program within the Department of Housing and Community Development for the purpose of providing financial assistance to certain families and nonprofit entities in certain disaster areas for certain purposes; authorizing the Department to fund the Program; specifying the sources and types of funding and financial assistance the Department may provide under the Program; requiring the Secretary of Housing and Community Development to adopt certain regulations, guidelines, eligibility requirements, and income limits for the Program; requiring that repayments under the Program be paid to the source of funds used to provide the financial assistance; requiring the Department to issue certain reports to the General Assembly on or before certain dates; and generally relating to the Disaster Relief Housing Program in the Department of Housing and Community Development.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–103
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

BY adding to
Article – Housing and Community Development
Section 4–1901 through ~~4–1904~~ 4–1905 to be under the new subtitle "Subtitle 19. Disaster Relief Housing Program"
Annotated Code of Maryland
(2006 Volume and 2007 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

4–103.

The Division includes:

(1) the Community Development Administration;

(2) **THE DISASTER RELIEF HOUSING PROGRAM;**

(3) the Down Payment and Settlement Expense Loan Program;

[(3)**] (4)** the Elderly Rental Housing Program;

[(4)**] (5)** federal and State weatherization programs;

[(5)**] (6)** the Group Home Financing Program;

[(6)**] (7)** the Lead Hazard Reduction Grant Program;

[(7)**] (8)** the Lead Hazard Reduction Loan Program;

[(8)**] (9)** the local government infrastructure program;

[(9)**] (10)** the Maryland Home Financing Program;

[(10)**] (11)** the Maryland Housing Rehabilitation Program;

[(11)**] (12)** the Neighborhood Housing Services Fund;

[(12)**] (13)** the Operating Assistance Grants Demonstration Projects;

[(13)**] (14)** the Partnership Rental Housing Program;

[(14)**] (15)** the Radium Pilot Grant Program;

[(15)**] (16)** the Rental Allowance Program;

[(16)**] (17)** the Rental Housing Production Program; and

[(17)**] (18)** the Self–Help Homeownership Technical Assistance Program.

SUBTITLE 19. DISASTER RELIEF HOUSING PROGRAM.

4–1901.

THERE IS A DISASTER RELIEF HOUSING PROGRAM WITHIN THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

4–1902.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE IN A STATE OR FEDERALLY DECLARED DISASTER AREA TO REHABILITATE OR REPLACE A PRIMARY RESIDENCE TO:

(1) A FAMILY WHOSE PRIMARY RESIDENCE WAS DAMAGED OR DESTROYED BY THE DISASTER; AND

(2) A NONPROFIT ENTITY THAT ASSISTS A FAMILY IN REHABILITATING AND REPLACING A PRIMARY RESIDENCE DESTROYED BY THE DISASTER.

4–1903.

(A) THE DEPARTMENT MAY PROVIDE FINANCIAL ASSISTANCE UNDER THE PROGRAM UTILIZING FUNDS FROM:

(1) ANY FUND OR PROGRAM UNDER DIVISION I OF THIS ARTICLE; OR

(2) ANY OTHER SOURCE OF FUNDS AVAILABLE TO THE DEPARTMENT.

(B) THE DEPARTMENT MAY PROVIDE ANY TYPE OF FINANCIAL ASSISTANCE PERMITTED BY DIVISION I OF THIS ARTICLE TO RECIPIENTS UNDER THE PROGRAM.

(C) IN ADDITION TO THE TYPE OF FINANCIAL ASSISTANCE ALLOWED UNDER SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT MAY PROVIDE FINANCIAL ASSISTANCE UNDER A BUY–DOWN PROGRAM THAT REDUCES THE AMOUNT A BORROWER PAYS ON A LOAN OBTAINED FROM THE PRIVATE MARKET OR FROM THE DEPARTMENT FOR A DEFINED PERIOD OF TIME.

4–1904.

(A) (1) THE SECRETARY SHALL ADOPT REGULATIONS, GUIDELINES, AND ELIGIBILITY REQUIREMENTS FOR IMPLEMENTING THE PROGRAM.

(2) THE GUIDELINES AND ELIGIBILITY REQUIREMENTS MAY BE DIFFERENT FOR EACH DISASTER.

(B) THE SECRETARY SHALL ESTABLISH INCOME LIMITS FOR THE PROGRAM IN CONNECTION WITH EACH DISASTER.

(C) THE ELIGIBILITY REQUIREMENTS OF ANY STATE FUND OR PROGRAM FROM WHICH FUNDS ARE UTILIZED FOR PROVIDING FINANCIAL ASSISTANCE, INCLUDING MAXIMUM INCOME LIMITS, MAY NOT APPLY TO FINANCIAL ASSISTANCE PROVIDED TO RECIPIENTS UNDER THE PROGRAM.

(D) REPAYMENTS OF FINANCIAL ASSISTANCE UNDER THE PROGRAM SHALL BE PAID TO THE SOURCE OF FUNDS THAT WAS USED TO PROVIDE THE FINANCIAL ASSISTANCE.

4–1905.

(A) THE DEPARTMENT SHALL ISSUE TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE:

(1) A PRELIMINARY REPORT 6 MONTHS AFTER THE PROGRAM IS INITIALLY ACTIVATED FOR EACH DISASTER; AND

(2) A FINAL REPORT ON OR BEFORE 18 MONTHS AFTER THE PROGRAM IS INITIALLY ACTIVATED FOR EACH DISASTER.

(B) THE REPORTS SHALL INCLUDE:

(1) THE AMOUNT AND TYPE OF ASSISTANCE PROVIDED;

(2) THE COUNTIES IN WHICH THE ASSISTANCE WAS PROVIDED; AND

(3) THE NAMES OF ANY FINANCIAL INSTITUTIONS THAT PROVIDED ASSISTANCE UNDER THE PROGRAM.

SECTION 2. ~~AND BE IT FURTHER ENACTED, That the Department of Housing and Community Development shall issue to the General Assembly, in accordance with § 2–1246 of the State Government Article, a preliminary report 6 months after the Program is utilized for a disaster and a final report on or before 18 months after the Program is utilized for a disaster. The reports shall include:~~

~~(1) the amount and type of assistance provided;~~

~~(2) the counties where the assistance was provided; and~~

~~(3) the names of any financial institutions that provided assistance under the Program.~~

~~SECTION 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 67

(House Bill 325)

AN ACT concerning

Somerset County – County Roads Board – Authority to Sell County Roads

FOR the purpose of authorizing the County Roads Board of Somerset County to sell any county road in Somerset County without public sale and when the property

is no longer needed for public use; providing that the County Roads Board may arrange the terms, conditions, and amount of consideration for and execute and acknowledge any deeds or instruments necessary to complete any sale made in accordance with this Act; and generally relating to the sale of public county roads in Somerset County.

BY adding to
The Public Local Laws of Somerset County
Section 9–118
Article 20 – Public Local Laws of Maryland
(2003 Edition and 2007 Supplement, as amended)

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

Article 20 – Somerset County

9–118.

THE COUNTY ROADS BOARD MAY:

(1) SELL ALL OF THE COUNTY'S RIGHT, TITLE, AND INTEREST IN AND TO ANY COUNTY ROAD;

(2) EXERCISE THE AUTHORITY UNDER ITEM (1) OF THIS SECTION:

(I) WITHOUT PUBLIC SALE; AND

(II) WHEN THE COUNTY ROAD IS NO LONGER NEEDED FOR PUBLIC USE;

(3) ARRANGE THE TERMS, CONDITIONS, AND AMOUNT OF CONSIDERATION, IF ANY, FOR ANY SALE MADE UNDER ITEM (1) OF THIS SECTION; AND

(4) EXECUTE AND ACKNOWLEDGE ANY DEEDS OR INSTRUMENTS NECESSARY TO COMPLETE ANY SALE MADE IN ACCORDANCE WITH ITEM (1) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 68

(House Bill 350)

AN ACT concerning

State Employees' Health Insurance Advisory Council – Repeal

FOR the purpose of repealing the State Employees' Health Insurance Advisory Council; repealing the functions and duties of the Council; and generally relating to the State Employees' Health Insurance Advisory Council.

BY repealing
Article – State Personnel and Pensions
Section 2–505 and 2–506
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

[2–505.

(a) There is a State Employees' Health Insurance Advisory Council.

(b) The Advisory Council consists of the following 18 members:

(1) the Secretary or a designee of the Secretary;

(2) a representative of each of the following, appointed by the Governor:

(i) the Department of Budget and Management;

(ii) the Department of Health and Mental Hygiene;

(iii) the University System of Maryland Administration;

(iv) the Department of Transportation;

(v) the Insurance Commissioner;

(vi) the State Comptroller;

(vii) the President of the Senate;

(viii) the Speaker of the House of Delegates;

(ix) the Maryland Classified Employees Association, Inc.;

(x) the Maryland Federation of Nurses and Health Professionals;

(xi) the Maryland Professional Employees Council;

(xii) the State Law Enforcement Officers Labor Alliance;

(xiii) the Maryland Troopers Association; and

(xiv) the public; and

(3) three representatives of the American Federation of State, County, and Municipal Employees, appointed by the Governor.

(c) The Governor shall appoint a chairman from among the members of the Advisory Council.

(d) The Secretary or the Secretary's designee shall serve as a continuing member.

(e) (1) The term of an appointed member is 2 years.

(2) The terms of appointed members are staggered as required by the terms provided for members of the Advisory Council on September 30, 1993.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves for the rest of the term and until a successor is appointed and qualifies.**]**

[2–506.

(a) The Advisory Council shall advise the Secretary on:

(1) health insurance benefit options that should be included in the Program;

(2) types of health care providers that should be used to provide health insurance benefits under the Program;

(3) procedures for soliciting bids or requesting proposals from health care providers for contracts for the Program;

(4) the implementation, maintenance, and administration of the health insurance benefits under the Program; and

(5) negotiations involving health insurance benefits under the Program.

(b) The Advisory Council shall meet at least quarterly at the times and places that it determines.

(c) The Advisory Council shall:

(1) maintain a record of its meetings, proceedings, and transactions; and

(2) submit an annual report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly.

(d) The Secretary shall give due consideration to the concerns expressed by the Advisory Council members who are representatives of employee organizations.

(e) Each member of the Advisory Council is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Department shall provide administrative support to the Advisory Council.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 69

(House Bill 394)

AN ACT concerning

State Postmortem Examiners Commission – Office of the Chief Medical Examiner – Postmortem Examiners Law

FOR the purpose of altering and expanding the requirements for the staff of the State Postmortem Examiners Commission; requiring the Chief Medical Examiner, deputy chief medical examiners, and certain assistant medical examiners to be certified in a certain medical specialty by a certain board; authorizing the Commission to appoint forensic investigators; requiring the Office of the Chief Medical Examiner to orally report certain findings and deliver a copy of a certain autopsy report to certain agencies if a case involves the death of a child in certain circumstances; providing that medical examiners who perform autopsies may retain any medical evidence, tissue, or organ needed to carry out the duties of the postmortem examiners law; requiring the Office of the Chief Medical Examiner to charge a reasonable fee for certain reports; and generally relating to the State Postmortem Examiners Commission, the Office of the Chief Medical Examiner, and the postmortem examiners law.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 5–301
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 5–305, 5–306(b)(1), 5–309(f), 5–310(b) and (d)(2)(vi), and 5–311(a), (d), and (e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

5–301.

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

(b) "Commission" means the State Postmortem Examiners Commission.

(c) "Medical examiner's case" means a death that a medical examiner is required by law to investigate.

5–305.

(a) (1) The Commission may employ a staff in accordance with the State budget **FOR THE OPERATION OF THE COMMISSION AND TO MAINTAIN ACCREDITATION**.

(2) The staff shall include:

(i) 1 chief medical examiner;

(ii) **[**1 deputy chief medical examiner**]** **2 DEPUTY CHIEF MEDICAL EXAMINERS**;

(iii) **[**4 assistant medical examiners**]** **ASSISTANT MEDICAL EXAMINERS**;

(iv) **[**1 toxicologist**]** **1 CHIEF STATE TOXICOLOGIST, 1 DEPUTY CHIEF STATE TOXICOLOGIST, LEAD TOXICOLOGISTS, AND ASSISTANT TOXICOLOGISTS**;

[(v) 2 assistant toxicologists;

(vi)**]** **(V)** 1 serologist;

[(vii)**]** **(VI)** 4 resident medical doctors who are training in forensic pathology; **[**and**]**

[(viii)**]** **(VII)** **[**1 chief traffic investigator**]** **1 CHIEF FORENSIC INVESTIGATOR, 2 DEPUTY CHIEF FORENSIC INVESTIGATORS, LEAD FORENSIC INVESTIGATORS, AND ASSISTANT FORENSIC INVESTIGATORS; AND**

(VIII) 1 AUTOPSY SERVICES SUPERVISOR, 1 DEPUTY SUPERVISOR, LEAD AUTOPSY TECHNICIANS, AND ASSISTANT AUTOPSY TECHNICIANS.

(3) The Commission may employ any physician on a contract basis for part–time services.

(b) **(1)** **[**Each medical examiner appointed under subsection (a)(2) of this section shall be a physician with at least 2 years postgraduate training in pathology**]** **THE CHIEF MEDICAL EXAMINER AND DEPUTY CHIEF MEDICAL EXAMINERS SHALL BE BOARD CERTIFIED IN ANATOMIC AND FORENSIC PATHOLOGY BY THE AMERICAN BOARD OF PATHOLOGY.**

(2) ASSISTANT MEDICAL EXAMINERS APPOINTED ON OR AFTER OCTOBER 1, 2008, SHALL BE CERTIFIED BY THE AMERICAN BOARD OF PATHOLOGY IN ANATOMIC AND FORENSIC PATHOLOGY OR OBTAIN THAT CERTIFICATION WITHIN 3 YEARS OF APPOINTMENT.

(c) With the approval of the Secretary of Budget and Management, the Commission shall set the compensation for personnel appointed under subsection (a)(2) of this section.

[(d) The Chief Medical Examiner, Deputy Chief Medical Examiner, and assistant medical examiners shall have an office in Baltimore City.**]**

[(e)**] (D)** For the use of these medical examiners, the Commission shall**[**:

(1) See that proper equipment is provided; or

(2) Arrange for use of the laboratory and other equipment of the Department, the Baltimore City Health Department, the Department of State Police, or the Baltimore City Police Department**]** **SEE THAT PROPER EQUIPMENT IS PROVIDED**.

[(f)**] (E)** The Chief Medical Examiner, **[**the Deputy Chief Medical Examiner,**]** **A DEPUTY CHIEF MEDICAL EXAMINER,** or an assistant medical examiner shall be on call at all times to perform the duties set forth in this subtitle.

[(g)**] (F)** The State budget shall include an appropriation to carry out this subtitle, including provisions for:

(1) The fee for an authorized pathologist;

(2) The necessary expenses for transportation of a body for examination by a medical examiner or for autopsy; and

(3) In the case of a victim of homicide, the necessary expenses for transportation of the body from the site of the autopsy or examination to a location within the State specified by the victim's family.

5–306.

(b) (1) The Commission may appoint one or more deputy medical examiners **AND FORENSIC INVESTIGATORS** for each county.

5–309.

(f) **(1)** If the case involves the unexpected death of a child, the medical examiner shall notify the chairperson of the local child fatality review team for the county in which the child resided.

(2) IF THE CASE INVOLVES THE DEATH OF A CHILD AND THE DEATH IS BELIEVED TO BE CAUSED BY ABUSE OR NEGLECT, OR THERE IS EVIDENCE SUGGESTING THAT THE CHILD WAS A VICTIM OF ABUSE OR NEGLECT, THE OFFICE OF THE CHIEF MEDICAL EXAMINER SHALL ORALLY REPORT THE FINDINGS AND DELIVER A COPY OF THE CHILD'S FINAL AUTOPSY REPORT TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE LOCAL LAW ENFORCEMENT AGENCY OF THE COUNTY IN WHICH THE CHILD LAST RESIDED IN ACCORDANCE WITH § 5–704 OF THE FAMILY LAW ARTICLE.

5–310.

(b) (1) If the medical examiner who investigates a medical examiner's case considers an autopsy necessary, the Chief Medical Examiner, **[**the Deputy Chief Medical Examiner,**]** **A DEPUTY CHIEF MEDICAL EXAMINER,** an assistant medical examiner, or a pathologist authorized by the Chief Medical Examiner shall perform the autopsy.

(2) If the family of the deceased objects to an autopsy on religious grounds, the autopsy may not be performed unless authorized by the Chief Medical Examiner or by the Chief Medical Examiner's designee.

(3) (I) IN ACCORDANCE WITH NORMAL STANDARDS OF MEDICAL PRACTICE, THE MEDICAL EXAMINER PERFORMING THE AUTOPSY MAY RETAIN ANY MEDICAL EVIDENCE, TISSUE, OR ORGAN NEEDED TO CARRY OUT THE DUTIES OF THIS SUBTITLE.

(II) THE MEDICAL EXAMINER SHALL DISPOSE OF ANY MEDICAL EVIDENCE, TISSUE, OR ORGAN UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN ACCORDANCE WITH NORMAL STANDARDS OF MEDICAL PRACTICE.

(d) (2) (vi) If the final decision of the Secretary, **OR** of the Secretary's designee, or of a court of competent jurisdiction on appeal, establishes a different finding or conclusion on the cause or manner of death of a deceased than that recorded on the certificate of death, the medical examiner shall amend the certificate to reflect the different finding or conclusion under §§ 4–212 and 4–214 of this article and § 10–625 of the State Government Article.

5–311.

(a) (1) The **OFFICE OF THE** Chief Medical Examiner **[**and, as to their respective counties, each of the deputy medical examiners**]** shall keep complete records on each medical examiner's case.

(2) The records shall be indexed properly and include:

(i) The name, if known, of the deceased;

(ii) The place where the body was found;

(iii) The date, cause, and manner of death; and

(iv) All other available information about the death.

(d) (1) In this subsection, "record":

(i) Means the result of **[**a view or**]** **AN EXTERNAL** examination of or an autopsy on a body; and

(ii) Does not include a statement of a witness or other individual.

(2) A record of the office of the Chief Medical Examiner or any deputy medical examiner, if made by the medical examiner or by anyone under the medical examiner's direct supervision or control, or a certified transcript of that record, is competent evidence in any court in this State of the matters and facts contained in it.

(e) (1) **[**A medical examiner shall charge a reasonable fee for making insurance and other similar reports**]** **THE OFFICE OF THE CHIEF MEDICAL**

EXAMINER SHALL CHARGE A REASONABLE FEE FOR REPORTS AS SPECIFIED IN A SCHEDULE OF FEES DEFINED IN THE REGULATIONS OF THE OFFICE OF THE CHIEF MEDICAL EXAMINER.

(2) A deputy medical examiner may keep any fee collected by the deputy medical examiner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 70

(House Bill 395)

AN ACT concerning

Health Insurance Carriers – Financial Reporting

FOR the purpose of repealing a requirement that certain managed care organizations file a certain consolidated financial statement with the Maryland Insurance Commissioner; requiring each managed care organization to file with the Commissioner a certain report on the managed care organization's financial condition on or before a certain date each year; requiring each managed care organization to file with the Commissioner an audited financial report on or before a certain date each year; specifying the content and format for certain reports; providing that certain financial reports are a public record; and generally relating to reports by health insurance carriers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–605
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Insurance

15–605.

(a) (1) On or before March 1 of each year, an annual report that meets the specifications of paragraph (2) of this subsection shall be submitted to the Commissioner by:

(i) each authorized insurer that provides health insurance in the State;

(ii) each nonprofit health service plan that is authorized by the Commissioner to operate in the State;

(iii) each health maintenance organization that is authorized by the Commissioner to operate in the State; and

(iv) as applicable in accordance with regulations adopted by the Commissioner, each managed care organization that is authorized to receive Medicaid prepaid capitation payments under Title 15, Subtitle 1 of the Health – General Article.

(2) The annual report required under this subsection shall:

(i) be submitted in a form required by the Commissioner; and

(ii) include for the preceding calendar year the following data for all health benefit plans specific to the State:

1. premiums written;

2. premiums earned;

3. total amount of incurred claims including reserves for claims incurred but not reported at the end of the previous year;

4. total amount of incurred expenses, including commissions, acquisition costs, general expenses, taxes, licenses, and fees, estimated if necessary;

5. loss ratio; and

6. expense ratio.

(3) The data required under paragraph (2) of this subsection shall be reported:

(i) by product delivery system for health benefit plans that are issued under Subtitle 12 of this title;

(ii) in the aggregate for health benefit plans that are issued to individuals;

(iii) in the aggregate for a managed care organization that operates under Title 15, Subtitle 1 of the Health – General Article; and

(iv) in a manner determined by the Commissioner in accordance with this subsection for all other health benefit plans.

(4) The Commissioner, in consultation with the Secretary of Health and Mental Hygiene, shall establish and adopt by regulation a methodology to be used in the annual report that ensures a clear separation of all medical and administrative expenses whether incurred directly or through a subcontractor.

(5) The Commissioner may conduct an examination to ensure that an annual report submitted under this subsection is accurate.

(6) Failure of an insurer, nonprofit health service plan, or health maintenance organization to submit the information required under this subsection in a timely manner shall result in a penalty of $500 for each day after March 1 that the information is not submitted.

(b) (1) Before a managed care organization may enroll a medical assistance program recipient, the managed care organization shall provide a business plan to the Commissioner.

(2) As part of the annual report required under subsection (a) of this section, a managed care organization shall:

(i) **[**file a consolidated financial statement in accordance with paragraph (3) of this subsection;

(ii)**]** provide a list of the total compensation from the managed care organization, including all cash and deferred compensation, stock, and stock options in addition to salary, of each member of the Board of Directors of the managed care organization, and each senior officer of the managed care organization or any subsidiary of the managed care organization as designated by the Commissioner; and

[(iii)**] (II)** provide any other information or documents necessary for the Commissioner to ensure compliance with this subsection and subsections

(a)(3)(iii) and (c)(5), (6), and (7) of this section and for the Secretary of Health and Mental Hygiene to carry out Title 15, Subtitle 1 of the Health – General Article.

[(3) The consolidated financial statement shall:

(i) cover the managed care organization and each of its affiliates and subsidiaries; and

(ii) consist of the financial statements of the managed care organization and each of its affiliates and subsidiaries prepared in accordance with statutory accounting principles and on a form approved by the Commissioner, and certified to by an independent certified public accountant as to the financial condition, transactions, and affairs of the managed care organization and its affiliates and subsidiaries for the immediately preceding calendar year.**]**

(c) (1) For a health benefit plan that is issued under Subtitle 12 of this title, the Commissioner may require the insurer, nonprofit health service plan, or health maintenance organization to file new rates if the loss ratio is less than 75%.

(2) (i) Subject to subparagraph (ii) of this paragraph, for a health benefit plan that is issued to individuals the Commissioner may require the insurer, nonprofit health service plan, or health maintenance organization to file new rates if the loss ratio is less than 60%.

(ii) Subparagraph (i) of this paragraph does not apply to an insurance product that:

1. is listed under § 15–1201(f)(3) of this title; or

2. is nonrenewable and has a policy term of no more than 6 months.

(iii) The Commissioner may establish a loss ratio for each insurance product described in subparagraph (ii)1 and 2 of this paragraph.

(3) The authority of the Commissioner under paragraphs (1) and (2) of this subsection to require an insurer, nonprofit health service plan, or health maintenance organization to file new rates based on loss ratio:

(i) is in addition to any other authority of the Commissioner under this article to require that rates not be excessive, inadequate, or unfairly discriminatory; and

(ii) does not limit any existing authority of the Commissioner to determine whether a rate is excessive.

(4) (i) In determining whether to require an insurer to file new rates under this subsection, the Commissioner may consider the amount of health insurance premiums earned in the State on individual policies in proportion to the total health insurance premiums earned in the State for the insurer.

(ii) The insurer shall provide to the Commissioner the information necessary to determine the proportion of individual health insurance premiums to total health insurance premiums as provided under this paragraph.

(5) The Secretary of Health and Mental Hygiene, in consultation with the Commissioner and in accordance with their memorandum of understanding, may adjust capitation payments for a managed care organization or for the Maryland Medical Assistance Program of a managed care organization that is a certified health maintenance organization:

(i) if the loss ratio is less than 80% during calendar year 1997; and

(ii) during each subsequent calendar year if the loss ratio is less than 85%.

(6) A loss ratio reported under paragraph (5) of this subsection shall be calculated separately and may not be part of another loss ratio reported under this section.

(7) Any rebate received by a managed care organization may not be considered part of the loss ratio of the managed care organization.

(8) If the Secretary of Health and Mental Hygiene adjusts capitation payments for a managed care organization or a certified health maintenance organization under paragraph (5) of this subsection, the managed care organization or certified health maintenance organization may:

(i) appeal the decision of the Secretary to the Board of Review established under Title 2, Subtitle 2 of the Health – General Article; and

(ii) take any further appeal allowed by the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(d) Each insurer, nonprofit health service plan, and health maintenance organization shall provide annually to each contract holder a written statement of the

loss ratio for a health benefit plan as submitted to the Commissioner under this section.

(e) (1) On or before May 1 of each year, the Commissioner shall transmit to the Maryland Health Care Commission any information it needs to evaluate the Comprehensive Standard Health Benefit Plan as required under § 15–1207 of this title.

(2) The information provided by the Commissioner shall be specified in regulations adopted by the Commissioner in consultation with the Maryland Health Care Commission.

(F) (1) (I) ON OR BEFORE MARCH 1 OF EACH YEAR, UNLESS, FOR GOOD CAUSE SHOWN, THE COMMISSIONER EXTENDS THE TIME FOR A REASONABLE PERIOD, EACH MANAGED CARE ORGANIZATION SHALL FILE WITH THE COMMISSIONER A REPORT THAT SHOWS THE FINANCIAL CONDITION OF THE MANAGED CARE ORGANIZATION ON THE LAST DAY OF THE PRECEDING CALENDAR YEAR AND ANY OTHER INFORMATION THAT THE COMMISSIONER REQUIRES BY BULLETIN OR REGULATION.

(II) AT ANY TIME, THE COMMISSIONER MAY REQUIRE A MANAGED CARE ORGANIZATION TO FILE AN INTERIM STATEMENT CONTAINING THE INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY.

(III) THE ANNUAL AND INTERIM REPORTS SHALL BE FILED IN A FORM REQUIRED BY THE COMMISSIONER.

(2) (I) ON OR BEFORE JUNE 1 OF EACH YEAR, EACH MANAGED CARE ORGANIZATION SHALL FILE WITH THE COMMISSIONER AN AUDITED FINANCIAL REPORT FOR THE PRECEDING CALENDAR YEAR.

(II) THE AUDITED FINANCIAL REPORT SHALL:

1. BE FILED IN A FORM REQUIRED BY THE COMMISSIONER; AND

2. BE CERTIFIED BY AN AUDIT OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

(G) EACH FINANCIAL REPORT FILED UNDER THIS SECTION IS A PUBLIC RECORD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 71

(House Bill 402)

AN ACT concerning

St. Mary's County – Transfer Tax – Termination Provision

FOR the purpose of extending to a certain date the termination provision relating to the authority of the County Commissioners of St. Mary's County to impose a real property transfer tax; and generally relating to the authority for the County Commissioners of St. Mary's County to impose a transfer tax.

BY repealing and reenacting, with amendments,
The Public Local Laws of St. Mary's County
Section 138–1
Article 19 – Public Local Laws of Maryland
(2007 Edition, as amended)

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

Article 19 – St. Mary's County

138–1.

A. (1) In this section "instrument of writing" means a written instrument that conveys title to, or a leasehold interest in, real property.

(2) "Instrument of writing" includes:

(a) A deed or contract;

(b) A lease;

(c) An assignment of a lessee's interest;

(d) Articles of transfer;

(e) Articles of merger or other document which evidences a merger of foreign corporations or foreign limited partnerships; and

(f) Articles of consolidation or other document which evidences a consolidation of foreign corporations.

(3) "Instrument of writing" does not include:

(a) A mortgage, deed of trust, or other contract that creates an encumbrance on real property; or

(b) A security agreement, as defined in § 12–101(e) of the Tax – Property Article of the Annotated Code of Maryland.

B. The County Commissioners may impose a transfer tax on an instrument of writing:

(1) Recorded with the Clerk of the Circuit Court for St. Mary's County; or

(2) Filed with the State Department of Assessments and Taxation.

C. A transfer tax under this section:

(1) Shall be established by ordinance;

(2) May not exceed one (1) percent; and

(3) Does not apply to:

(a) An instrument of writing exempt from the State transfer tax under § 13–207 of the Tax – Property Article of the Annotated Code of Maryland; or

(b) A transfer of land subject to the agricultural land transfer tax under Title 13, Subtitle 3 of the Tax – Property Article of the Annotated Code of Maryland.

D. (1) The proceeds from the transfer tax may only be used to pay for capital projects.

(2) The County Commissioners shall state in the county budget each year:

(a) An estimate of the revenue to be received from the transfer tax for both the current and the ensuing fiscal years;

(b) The revenue received from the transfer tax during the previous fiscal year; and

(c) The capital projects for which the County Commissioners anticipate the proceeds from the transfer tax will be used.

E. Before the county imposes a transfer tax under this section, the County Commissioners shall hold a public hearing that:

(1) Shall be advertised by publication in a newspaper of general circulation in the county at least ten (10) days before the hearing; and

(2) May not be part of the annual budget hearing.

F. The authority granted to impose a transfer tax under this section shall terminate and be of no effect after **[**July 1, 2010**]** **JULY 1, 2020**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 72

(House Bill 405)

AN ACT concerning

Homeowner's Insurance – Loss from Water and Sewer Backup – Offer of Coverage

FOR the purpose of clarifying the time at which an offer of coverage for loss that is caused by or results from certain water backup must be made by certain insurers; requiring an insurer that sells a homeowner's insurance policy to offer

the coverage; requiring the offer to be made in ~~writing~~ a certain manner; and generally relating to homeowner's insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 19–202
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Insurance

19–202.

(A) An insurer that issues**, SELLS,** or delivers a homeowner's insurance policy shall **AT TIME OF APPLICATION AND RENEWAL** offer **IN WRITING** to provide coverage for loss that:

(1) is caused by or results from water that backs up through sewers or drains; and

(2) is not caused by the negligence of the insured.

(B) IF AN APPLICATION OR RENEWAL IS MADE BY TELEPHONE, THE INSURER IS DEEMED TO BE IN COMPLIANCE WITH SUBSECTION (A) OF THIS SECTION IF, WITHIN 7 CALENDAR DAYS AFTER THE DATE OF APPLICATION OR RENEWAL, THE INSURER SENDS BY CERTIFICATE OF MAILING THE OFFER TO THE APPLICANT OR INSURED.

(C) IF AN APPLICATION OR RENEWAL IS MADE USING THE INTERNET, THE INSURER IS DEEMED TO BE IN COMPLIANCE WITH SUBSECTION (A) OF THIS SECTION IF THE INSURER PROVIDES THE OFFER TO THE APPLICANT OR INSURED PRIOR TO SUBMISSION OF THE APPLICATION OR RENEWAL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 73

(House Bill 406)

AN ACT concerning

Business and Economic Development – Financing Transactions

FOR the purpose of authorizing the Department of Business and Economic Development to expend funds and take certain actions to protect the interests of the Department in certain financing transactions; authorizing the Department to receive certain repayments and returns on investment for certain financings made to local governments from the Maryland Economic Development Assistance Fund without triggering certain new financing requirements; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to financing transactions of the Department of Business and Economic Development.

BY adding to
Article 83A – Department of Business and Economic Development
Section 5–107
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 83A – Department of Business and Economic Development
Section 5–1405
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Economic Development
Section 5–107
Annotated Code of Maryland
(As enacted by Chapter ___ (H.B. 1050) of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 5–319(c)
Annotated Code of Maryland
(As enacted by Chapter ___ (H.B. 1050) of the Acts of the General Assembly of 2008)

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

Article 83A – Department of Business and Economic Development

5–107.

THE DEPARTMENT MAY TAKE ALL REASONABLE ACTIONS TO PROTECT THE INTERESTS OF THE DEPARTMENT IN ITS INVESTMENTS, COLLATERAL, LOANS, GRANTS, AND OTHER PROPERTY OR INTERESTS RELATING TO FINANCING TRANSACTIONS, INCLUDING EXPENDING FUNDS FROM ITS GENERAL AND SPECIAL FUNDS TO ACQUIRE, DISPOSE OF, OPERATE, PROTECT, ENHANCE, OR MAINTAIN COLLATERAL OR LIENS.

5–1405.

(a) The Department may use moneys in the Fund to:

(1) Provide financial assistance to eligible applicants; and

(2) Pay expenses for administrative, actuarial, legal, and technical services for the Fund.

(b) Financial assistance from the Fund may be used only to finance costs incurred for:

(1) Acquisition or construction of a building or real estate, and associated development and carrying costs;

(2) Acquisition, construction, or installation of machinery, equipment, furnishings, fixtures, leasehold improvements, site improvements, or infrastructure improvements, including rail line enhancements on or to the site of an economic development project, and associated development and carrying costs;

(3) Working capital for significant strategic economic development opportunities, arts and entertainment enterprises, or arts and entertainment projects;

(4) Redevelopment of qualified brownfields sites;

(5) (i) Except as provided in item (ii) of this paragraph, up to 50% of the costs of renovations, construction, or purchase of real property, fixtures, or equipment related to a child care facility, but not for refinancing existing loans, working capital, supplies, or inventory; or

(ii) A business that has received or will receive a day care loan insured by the Maryland Industrial Development Financing Authority; such businesses shall be limited to financial assistance from the Fund of not more than 20% of the costs described in item (i) of this paragraph;

(6) If supported by a resolution adopted by the governing body of the jurisdiction in which a project may be located, costs of feasibility studies;

(7) Up to 50% of the costs of preparing a county's or municipality's strategy or plan for economic development, not to exceed a total of $50,000 in a 3–year period; and

(8) Any project intended to assist businesses in areas declared federal disaster areas, but only if the Fund received an application for financial assistance within 1 year after the declaration of the federal disaster area.

(c) (1) Financial assistance from the Fund:

(i) May not exceed the lesser of $10,000,000 or 20% of the Fund balance;

(ii) Except as provided in item (iii) of this paragraph, may not exceed 70% of the total costs of the project being financed;

(iii) May constitute 100% of the total costs of the project being financed if:

1. The recipient is the Maryland Economic Development Corporation;

2. The financial assistance is for an arts and entertainment enterprise or arts and entertainment project; or

3. The financial assistance is for a qualified distressed county project;

(iv) If a loan for a significant strategic economic development opportunity or for a specialized economic development opportunity, shall carry an interest rate below the market rate of interest, as determined by the Department;

(v) If a loan for a local economic development opportunity or to a local government for a project that is not in a qualified distressed county, shall carry

an interest rate not exceeding one–eighth of one percent plus the net interest cost of the most recent State general obligation bond issue preceding the approval of the loan;

(vi) Shall not bear a rate of interest less than 3% unless the project funded by a loan is located in an area of high unemployment or the Department determines that the borrower is carrying out a compelling economic development initiative;

(vii) If a loan for a qualified distressed county project, shall carry a rate of interest determined by the Department or the Authority; and

(viii) May not be used to refinance existing debt.

(2) Loans from the Fund may not be for a term exceeding:

(i) For working capital – 3 years;

(ii) For financing machinery, equipment, furnishings, or fixtures – the lesser of 15 years or the useful life of the asset, as determined by the Department;

(iii) For financing the construction or acquisition of buildings and real estate – 25 years; and

(iv) For financial assistance for redevelopment of a qualified brownfields site or a qualified distressed county project – a term approved by the Department or the Authority.

(3) For loans from the Fund the Department may:

(i) Waive interest during the first 2 years of a loan term; or

(ii) Upon a default by the borrower, impose an interest rate that exceeds the limits set forth in paragraph (1) of this subsection.

(4) Proceeds of investments from the Fund may be expended only on costs described in subsection (b) of this section.

(d) To be eligible for financial assistance from the Fund, an applicant must be:

(1) An individual, private business, not for profit entity, or local government which:

(i) Must use the requested financial assistance for a project in an eligible industry sector, unless the applicant is a local government intending to use the financial assistance to carry out a project that:

1. Does not benefit a particular private sector entity; or

2. Is located in a qualified distressed county;

(ii) Intends to use the requested financial assistance for a project that has a strong potential for expanding or retaining employment opportunities in the State; and

(iii) Submits to the Department an application containing:

1. Any information the Department or the Authority deems necessary in evaluating the request for financial assistance; and

2. For a qualified distressed county project, the following, in form and content acceptable to the Department:

A. A marketing plan designed to market the project to prospective businesses;

B. A statement of planned marketing expenditures as a percent of the total financial assistance amount requested; and

C. A plan for the project that is consistent with the county's local strategic economic development plan as to the location and type of project; or

(2) A local economic development fund that meets the criteria set forth in § 5–1407 of this subtitle.

(e) Subject to the restrictions of this subtitle, the Department or the Authority shall impose such terms and conditions on financial assistance provided from the Fund as either deems appropriate.

(f) For a local economic development opportunity, the local government of the jurisdiction in which the project is located must provide:

(1) A formal resolution of the governing body of the jurisdiction in which the project is located endorsing the financial assistance to be provided from the Fund; and

(2) Either or both of the following, as determined by the Department or the Authority, to evidence its support of the project:

(i) A guarantee, secured by the full faith and credit of the county or municipality in which the project is located, of all or a portion of the amount of the financial assistance; or

(ii) The financing of a portion of the costs of the project equal to at least 10% of the financial assistance to be provided from the Fund.

(g) (1) Financial assistance provided to a local government must be approved by a formal resolution of:

(i) The governing body of the jurisdiction in which the project is located; or

(ii) Except as provided in paragraph (2) of this subsection, if the recipient of the financial assistance is the Maryland Economic Development Corporation, its Board of Directors.

(2) If the recipient of the financial assistance is the Maryland Economic Development Corporation for a qualified distressed county project, the financial assistance must be approved by formal resolutions of both the board of directors of the Maryland Economic Development Corporation and the governing body of the jurisdiction in which the project is located.

(3) A project that is funded by a grant from the Fund to a local government, and carried out by the local government, must be consistent with the strategy or plan for economic development of the county or municipality in which the project is located.

(4) IF THE DEPARTMENT PROVIDES FINANCIAL ASSISTANCE TO A LOCAL GOVERNMENT FOR A PROJECT, AN INTEREST IN THAT PROJECT IS LATER TRANSFERRED TO A THIRD PARTY, AND THE TRANSFER OF THE INTEREST IS FINANCED BY THE LOCAL GOVERNMENT:

(I) THE LOCAL GOVERNMENT MAY ASSIGN THE FINANCING DOCUMENTS TO THE DEPARTMENT AS A REPAYMENT OF OR RETURN ON THE DEPARTMENT'S FINANCIAL ASSISTANCE TO THE LOCAL GOVERNMENT; AND

(II) THE ASSIGNMENT MAY NOT BE DEEMED A NEW FINANCING UNDER THIS SUBTITLE.

(h) (1) Financial assistance from the Fund not exceeding $2,500,000 may be approved by the Secretary.

(2) Financial assistance from the Fund exceeding $2,500,000 shall be approved by the Authority.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Secretary may approve financial assistance exceeding $2,500,000 for a qualified distressed county project.

(i) The Department shall periodically review its portfolio in an effort to ensure:

(1) Equitable funds distribution among Maryland's counties;

(2) Adequate funding for qualified distressed county projects; and

(3) That no particular qualified distressed county benefits disproportionally from financial assistance to qualified distressed counties under this subtitle.

(j) The Department shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly before January 1 of each year on the number, amount, use, and economic benefits of financial assistance awarded under this subtitle.

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

Article – Economic Development

5–107.

THE DEPARTMENT MAY TAKE ALL REASONABLE ACTIONS TO PROTECT THE INTERESTS OF THE DEPARTMENT IN ITS INVESTMENTS, COLLATERAL, LOANS, GRANTS, AND OTHER PROPERTY OR INTERESTS RELATING TO FINANCING TRANSACTIONS, INCLUDING EXPENDING FUNDS FROM ITS GENERAL AND SPECIAL FUNDS TO ACQUIRE, DISPOSE OF, OPERATE, PROTECT, ENHANCE, OR MAINTAIN COLLATERAL OR LIENS.

5–319.

(c) (1) Except as provided in paragraph (2) of this subsection, financial assistance provided to a local government or the Corporation for a project shall be approved by a formal resolution of:

(i) the governing body of the jurisdiction in which the project is located; or

(ii) if the recipient of the financial assistance is the Corporation, its board of directors.

(2) If the recipient of the financial assistance is the Corporation for a qualified distressed county project, the financial assistance shall be approved by formal resolutions of both the board of directors of the Corporation and the governing body of the jurisdiction in which the project is located.

(3) A project that is funded by a grant from the Fund to a local government or the Corporation, and carried out by the local government or the Corporation, shall be consistent with the strategy or plan for economic development of the county or municipal corporation in which the project is located.

(4) IF THE DEPARTMENT PROVIDES FINANCIAL ASSISTANCE TO A LOCAL GOVERNMENT FOR A PROJECT, AN INTEREST IN THAT PROJECT IS LATER TRANSFERRED TO A THIRD PARTY, AND THE TRANSFER OF THE INTEREST IS FINANCED BY THE LOCAL GOVERNMENT:

(I) THE LOCAL GOVERNMENT MAY ASSIGN THE FINANCING DOCUMENTS TO THE DEPARTMENT AS A REPAYMENT OF OR RETURN ON THE DEPARTMENT'S FINANCIAL ASSISTANCE TO THE LOCAL GOVERNMENT; AND

(II) THE ASSIGNMENT MAY NOT BE CONSIDERED A NEW FINANCING UNDER THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter ___ (H.B. 1050) of the Acts of the General Assembly of 2008. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 74

(House Bill 416)

AN ACT concerning

Unemployment Insurance – State Collection of the Federal Unemployment Insurance Tax

FOR the purpose of authorizing the Department of Labor, Licensing, and Regulation to directly collect from employers the federal unemployment insurance tax under certain circumstances; requiring that funds derived from the collection of the tax be used only for certain purposes; providing for a certain review by the Joint Committee on Unemployment Insurance Oversight; providing for the termination of this Act; and generally relating to unemployment insurance law.

BY adding to
Article – Labor and Employment
Section 8–607.1
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

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

Article – Labor and Employment

8–607.1.

(A) IF AUTHORIZED OR DIRECTED BY THE UNITED STATES DEPARTMENT OF LABOR, THE DEPARTMENT MAY DIRECTLY COLLECT FROM EMPLOYERS THE FEDERAL UNEMPLOYMENT INSURANCE TAX SET FORTH IN THE FEDERAL UNEMPLOYMENT TAX ACT, 26 U.S.C. § 3301 ET SEQ.

(B) THE DEPARTMENT SHALL USE FUNDS DERIVED FROM THE COLLECTION OF TAXES COLLECTED UNDER SUBSECTION (A) OF THIS SECTION ONLY TO ADMINISTER PROGRAMS AND SERVICES DESIGNATED UNDER §§ 8–302 AND 8–303 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Labor, Licensing, and Regulation shall submit any agreement reached with the federal government pursuant to this Act to the Joint Committee on Unemployment Insurance Oversight for review.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 5 years and, at the end of September 30, 2013, 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 8, 2008.

CHAPTER 75

(House Bill 445)

AN ACT concerning

Property Tax Credits – St. Mary's County – Land Preservation Easements

FOR the purpose of altering certain authority for the governing body of St. Mary's County to grant a property tax credit against the county property tax imposed on certain property that is subject to certain preservation programs; providing for the application of this Act; and generally relating to property tax credits for property subject to a land preservation program in St. Mary's County.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–320(a)
Annotated Code of Maryland
(2007 Replacement Volume)

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

Article – Tax – Property

9–320.

(a) (1) The governing body of St. Mary's County may grant, by law, a property tax credit under this section against county property tax imposed on:

(i) property that is:

1. owned by the St. George's Island Improvement Association, Incorporated; and

2. used only for community or civic purposes;

(ii) real property that is owned by the Seventh District Optimist Youth Foundation, Inc.;

(iii) **[**real property that is subject to the Maryland Agricultural Land Preservation District Program or the St. Mary's County Agricultural Land Preservation District 5–year Program**]** **REAL PROPERTY, INCLUDING ANY IMPROVEMENTS, THAT IS SUBJECT TO A STATE OR A COUNTY LAND PRESERVATION PROGRAM**; and

(iv) real property that:

1. was formerly used solely as a tobacco barn; and

2. is subject to a tobacco buyout agreement.

(2) In authorizing a credit under paragraph (1)(iv) of this subsection, the governing body of the county may provide, by law, for:

(i) the amount of the credit;

(ii) the duration of the credit; and

(iii) any other provision necessary to administer the credit.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008, and shall be applicable to all taxable years beginning after June 30, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 76

(House Bill 462)

AN ACT concerning

Health Insurance – Small Group Market – Self–Employed Individuals – Sunset Extension

FOR the purpose of extending the termination date of a certain provision until a certain date; and generally relating to health insurance policies for self–employed individuals in the small group market.

BY repealing and reenacting, without amendments,
Chapter 347 of the Acts of the General Assembly of 2005, as amended by Chapter 59 of the Acts of the General Assembly of 2007
Section 2

BY repealing and reenacting, without amendments,
Chapter 347 of the Acts of the General Assembly of 2005
Section 3

BY repealing and reenacting, with amendments,
Chapter 347 of the Acts of the General Assembly of 2005
Section 4

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

Chapter 347 of the Acts of 2005, as amended by Chapter 59 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That each individual enrolled on September 30, 2005 in a health benefit plan offered by a carrier under Title 15, Subtitle 12 of the Insurance Article may at the option of the enrollee remain covered under any policy issued by the carrier to small employers and selected by the enrollee at renewal, subject to the termination provisions under § 15–1212(b) of the Insurance Article, provided the enrollee continues to:

(1) work and reside in the State; and

(2) is a self–employed individual organized as a sole proprietorship or in any other legally recognized manner that a self–employed individual may organize:

(i) a substantial part of whose income derives from a trade or business through which the individual has attempted to earn taxable income;

(ii) who has filed the appropriate Internal Revenue form or forms and schedule for the previous taxable year; and

(iii) for whom a copy of the appropriate Internal Revenue form or forms and schedule has been filed with the carrier.

Chapter 347 of the Acts of 2005

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before September 1, 2008, the Maryland Insurance Administration and the Maryland Health Insurance Plan shall submit a report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on:

(a) the effect of excluding self–employed individuals and sole proprietors from the small group market on the availability and affordability of health insurance in the small group market; and

(b) the number of self–employed individuals and sole proprietors enrolled in the Maryland Health Insurance Plan.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005. Sections 1 and 2 of this Act shall remain effective for a period of **[**3**]** **6** years and, at the end of September 30, **[**2008**]** **2011**, with no further action required by the General Assembly, Sections 1 and 2 of 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 July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 77

(House Bill 467)

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 $8,895,000 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, 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, $8,895,000 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 78

(House Bill 471)

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 $35,000,000 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, $35,000,000 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 79

(House Bill 510)

AN ACT concerning

Health Care Decisions Act – Advance Directives – Electronic Documents and Electronic Signatures

FOR the purpose of establishing, for purposes of the Health Care Decisions Act, that an electronic signature shall have the same effect as a manual signature, if the electronic signature meets certain requirements; authorizing a competent individual to make an electronic advance directive for certain purposes; authorizing an advance directive to be revoked electronically; defining certain terms; altering a certain definition; making certain conforming and stylistic changes; and generally relating to electronic documents and electronic signatures under the Health Care Decisions Act.

BY renumbering
Article – Health – General
Section 5–601(h) through (p) and (q), respectively
to be Section 5–601(i) through (q) and (s), respectively
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 21–101(i)

Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 5–601(b), 5–602(a), (b)(2), (c), (d), and (f)(2), and 5–604
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Health – General
Section 5–601(h) and (r) and 5–601.1
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5–601(h) through (p) and (q), respectively, of Article – Health – General of the Annotated Code of Maryland be renumbered to be Section(s) 5–601(i) through (q) and (s), respectively.

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

Article – Commercial Law

21–101.

(i) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Article – Health – General

5–601.

(b) "Advance directive" means:

(1) A witnessed written **OR ELECTRONIC** document, voluntarily executed by the declarant in accordance with the requirements of this subtitle; or

(2) A witnessed oral statement, made by the declarant in accordance with the provisions of this subtitle.

(H) "ELECTRONIC SIGNATURE" HAS THE MEANING STATED IN § 21–101 OF THE COMMERCIAL LAW ARTICLE.

(R) "SIGNED" MEANS BEARING A MANUAL OR ELECTRONIC SIGNATURE.

5–601.1.

FOR PURPOSES OF THIS PART I OF THIS SUBTITLE, AN ELECTRONIC SIGNATURE SHALL HAVE THE SAME EFFECT AS A MANUAL SIGNATURE IF THE ELECTRONIC SIGNATURE:

(1) USES AN ALGORITHM APPROVED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY;

(2) IS UNIQUE TO THE INDIVIDUAL USING IT;

(3) IS CAPABLE OF VERIFICATION;

(4) IS UNDER THE SOLE CONTROL OF THE INDIVIDUAL USING IT;

(5) IS LINKED TO DATA IN SUCH A MANNER THAT IF THE DATA ARE CHANGED, THE ELECTRONIC SIGNATURE IS INVALIDATED;

(6) PERSISTS WITH THE DOCUMENT AND NOT BY ASSOCIATION IN SEPARATE FILES; AND

(7) IS BOUND TO A DIGITAL CERTIFICATE.

5–602.

(a) Any competent individual may, at any time, make a written **OR ELECTRONIC** advance directive regarding the provision of health care to that individual, or the withholding or withdrawal of health care from that individual.

(b) (2) Any competent individual may, at any time, make a written **OR ELECTRONIC** advance directive appointing an agent to make health care decisions for the individual under the circumstances stated in the advance directive.

(c) (1) A written **OR ELECTRONIC** advance directive shall be dated, signed by or at the express direction of the declarant, and subscribed by two witnesses.

(2) (i) Except as provided in **[**items**]** **SUBPARAGRAPHS** (ii) and (iii) of this paragraph, any competent individual may serve as a witness to an advance directive, including an employee of a health care facility or physician caring for the declarant if acting in good faith.

(ii) The health care agent of the declarant may not serve as a witness.

(iii) At least one of the witnesses must be an individual who is not knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any financial benefit by reason of the death of the declarant.

(d) (1) Any competent individual may make an oral advance directive to authorize the providing, withholding, or withdrawing of any life–sustaining procedure or to appoint an agent to make health care decisions for the individual.

(2) An oral advance directive shall have the same effect as a written **OR ELECTRONIC** advance directive if made in the presence of the attending physician and one witness and if the substance of the oral advance directive is documented as part of the individual's medical record. The documentation shall be dated and signed by the attending physician and the witness.

(f) (2) An attending physician who is notified of the existence of the advance directive shall promptly:

(i) If the advance directive is written **OR ELECTRONIC**, make the advance directive or a copy of the advance directive a part of the declarant's medical records; or

(ii) If the advance directive is oral, make the substance of the advance directive, including the date the advance directive was made and the name of the attending physician, a part of the declarant's medical records.

5–604.

(a) An advance directive may be revoked at any time by a declarant by a signed and dated **[**writing**]** **WRITTEN OR ELECTRONIC DOCUMENT**, by physical cancellation or destruction, by an oral statement to a health care practitioner or by the execution of a subsequent directive.

(b) If a declarant revokes an advance directive by an oral statement to a health care practitioner, the practitioner and a witness to the oral revocation shall document the substance of the oral revocation in the declarant's medical record.

(c) It shall be the responsibility of the declarant, to the extent reasonably possible, to notify any person to whom the declarant has provided a copy of the directive.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 80

(House Bill 585)

AN ACT concerning

Nursing Homes – Safe Patient Lifting

FOR the purpose of requiring nursing homes to establish a safe patient lifting workgroup composed of certain members on or before a certain date; requiring the workgroup to establish a safe patient lifting policy on or before a certain date; requiring the workgroup to consider certain factors while developing a safe patient lifting policy; ~~defining a certain term;~~ and generally relating to the safe lifting of nursing home patients.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–1401(a) and (e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Health – General
Section 19–1410.1
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

19–1401.

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

(e) "Nursing home" means a facility (other than a facility offering domiciliary or personal care as defined in Subtitle 3 of this title) which offers nonacute inpatient care to patients suffering from a disease, chronic illness, condition, disability of advanced age, or terminal disease requiring maximal nursing care without continuous hospital services and who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent, restorative, or rehabilitative services.

19–1410.1.

~~**(A) IN THIS SECTION, "SAFE PATIENT LIFTING" MEANS THE USE OF MECHANICAL LIFTING DEVICES BY NURSING HOME EMPLOYEES, INSTEAD OF MANUAL LIFTING, TO LIFT, TRANSFER, AND REPOSITION PATIENTS.**~~

~~**(B)**~~ **(A) ON OR BEFORE DECEMBER 1, 2008, EACH NURSING HOME SHALL ESTABLISH A SAFE PATIENT LIFTING WORKGROUP WITH EQUAL MEMBERSHIP FROM MANAGEMENT AND EMPLOYEES.**

~~**(C)**~~ **(B) (1) ON OR BEFORE JULY 1, 2009, THE SAFE PATIENT LIFTING WORKGROUP SHALL DEVELOP A SAFE PATIENT LIFTING POLICY FOR THE NURSING HOME.**

(2) THE GOAL OF THE POLICY SHALL BE TO REDUCE EMPLOYEE INJURIES ASSOCIATED WITH PATIENT LIFTING.

~~**(D)**~~ **(C) WHILE DEVELOPING A SAFE PATIENT LIFTING POLICY, THE WORKGROUP SHALL CONSIDER, BASED ON THE PATIENT POPULATION OF THAT NURSING HOME, THE APPROPRIATENESS AND EFFECTIVENESS OF:**

(1) DEVELOPING OR ENHANCING PATIENT HANDLING HAZARD ASSESSMENT PROCESSES;

(2) ENHANCED USE OF MECHANICAL LIFTING DEVICES;

(3) DEVELOPING SPECIALIZED LIFT TEAMS;

(4) TRAINING PROGRAMS FOR SAFE PATIENT LIFTING REQUIRED FOR ALL PATIENT CARE PERSONNEL AT THE NURSING HOME;

(5) INCORPORATING PHYSICAL SPACE AND CONSTRUCTION DESIGN FOR MECHANICAL LIFTING DEVICES IN ANY ARCHITECTURAL PLANS FOR NURSING HOME CONSTRUCTION AND RENOVATION; AND

(6) DEVELOPING AN EVALUATION PROCESS TO DETERMINE THE EFFECTIVENESS OF THE POLICY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 81

(House Bill 634)

AN ACT concerning

Washington County – Board of License Commissioners – Annual Audit

FOR the purpose of requiring the Board of License Commissioners of Washington County to engage an independent certified public accounting firm to conduct an audit to express an opinion on the fair presentation of the financial statements of the Board; requiring the firm by a certain date to provide copies of the audit report to certain persons; and generally relating to the Board of License Commissioners of Washington County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 15–112(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 15–112(w)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 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) (1) The boards of license commissioners in this State may issue the alcoholic beverages licenses provided for by this article in their respective jurisdictions.

(2) Each board may employ a secretary and inspectors, clerical and other assistance as is necessary, and fix the compensation of the employees, except as otherwise provided by this article.

(3) In this section, "Board" means the Board of License Commissioners, unless otherwise noted.

(W) (1) THIS SUBSECTION APPLIES ONLY IN WASHINGTON COUNTY.

(2) THE BOARD ANNUALLY SHALL ENGAGE AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTING FIRM TO CONDUCT AN AUDIT IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS TO EXPRESS AN OPINION ON THE FAIR PRESENTATION OF THE FINANCIAL STATEMENTS OF THE BOARD.

(3) BY NOVEMBER 1 AFTER THE CLOSE OF EACH FISCAL YEAR, THE FIRM SHALL PROVIDE COPIES OF THE AUDIT REPORT TO THE MEMBERS OF THE BOARD AND THE SENATORS AND DELEGATES WHO CONSTITUTE THE WASHINGTON COUNTY DELEGATION TO THE MARYLAND GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 82

(House Bill 637)

AN ACT concerning

Washington County – County Clerk

FOR the purpose of altering the duties of the County Clerk of Washington County; repealing a provision requiring the County Clerk to receive from the Tax Collector of Washington County certain interest coupons on the bonded indebtedness of the county and certain bonds due and redeemed by the Tax Collector; repealing a requirement that the County Clerk cancel certain coupons and bonds; repealing a requirement that the County Clerk make a certain report to the County Commissioners of Washington County; repealing a provision requiring the bond of the Tax Collector to be responsible for certain money paid by the Tax Collector to the County Clerk; repealing a provision requiring the Tax Collector to pay out certain money in a certain manner; and generally relating to the duties of the County Clerk of Washington County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Washington County
Section 1–202
Article 22 – Public Local Laws of Maryland
(2007 Edition, as amended)

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

Article 22 – Washington County

1–202.

(a) (1) The County Clerk shall:

(i) Keep careful and accurate minutes of the proceedings of the County Commissioners;

(ii) Keep all records, papers and documents of the county in safe custody; **AND**

(iii) **[**File all accounts and claims presented against the county, and whenever any account is approved and passed by the County Commissioners, make a record of it in a book to be kept for that purpose, to which shall be attached an accurate index, so that the dealings of every one with the County Commissioners may be readily ascertained;

(iv)**]** Perform other duties imposed upon clerks of County Commissioners by any general or local law and other clerical duties required of the County Clerk by order of the County Commissioners**[**;

(v) Receive all money paid to the County Commissioners from all sources except the annual levy;

(vi) Keep an accurate account of all money received by the County Clerk and pay it over, as received, to the Tax Collector of Washington County; and

(vii) Make a detailed monthly report to the County Commissioners**]**.

(2) (i) Before beginning the duties of the office of the County Clerk, the County Clerk shall execute a $10,000 bond to the State of Maryland, to be approved by a judge of the Circuit Court for Washington County, conditioned on the true and faithful performance of the duties of the office. The bond shall provide that the County Clerk shall well and faithfully account for and pay to the proper person all money, orders, or funds coming into the County Clerk's hands.

(ii) The bond shall be liable for any default by the County Clerk or misappropriation of any of the county's money or funds which are entrusted to the County Clerk, and shall be recorded in the office of the Clerk of the Circuit Court for Washington County.

(3) **[**(i) The County Clerk shall receive from the Tax Collector for the county all interest coupons upon the bonded indebtedness of the county due and paid by the Tax Collector and all bonds due and redeemed by the Tax Collector; and

(ii) the County Clerk at once shall cancel the coupons and bond and report to the County Commissioners at their next meeting the amount of coupons or bonds, or both, received and canceled.

(4) The bond of the Tax Collector shall be responsible for all money paid the Tax Collector by the County Clerk in accordance with this section. The Tax Collector shall pay out the money received by the Tax Collector on orders or warrants of the County Commissioners in the manner provided by § 2–403 of this Code.

(5)**]** All necessary books and stationery required by the County Clerk shall be supplied by the County Commissioners and shall remain the property of the County Commissioners.

(b) Notwithstanding any other provisions of this Code, the County Commissioners by ordinance may:

(1) Provide additional duties for the County Clerk; and

(2) Assign duties imposed upon the County Clerk by this section to other county officials.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 83

(House Bill 689)

AN ACT concerning

Access to Public Records – Permissible Denials – Public Institutions of Higher Education

FOR the purpose of authorizing a custodian ~~to deny certain inspections of a part~~ of a certain record kept by a public institution of higher education that contains certain personal information relating to certain individuals ~~that contains certain information~~ to require that certain requests be in writing and to deny certain inspections under certain circumstances; defining ~~a~~ certain ~~term~~ terms; and generally relating to records kept by public institutions of higher education.

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–611(f)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 10–618(m)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – State Government

10–611.

(f) (1) **[**"Personal information"**]** **EXCEPT AS OTHERWISE PROVIDED IN THIS PART III, "PERSONAL INFORMATION"** means information that identifies an individual including an individual's address, driver's license number or any other identification number, medical or disability information, name, photograph or computer generated image, Social Security number, or telephone number.

(2) "Personal information" does not include an individual's driver's status, driving offenses, 5–digit zip code, or information on vehicular accidents.

10–618.

(M) (1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "~~DIRECTORY~~ DIRECTORY INFORMATION" HAS THE SAME MEANING AS PROVIDED IN 20 U.S.C. § 1232G.

(III) "PERSONAL INFORMATION" MEANS:

1. AN ADDRESS;

2. A PHONE NUMBER;

3. AN ELECTRONIC MAIL ADDRESS; OR

4. DIRECTORY INFORMATION.

(2) A CUSTODIAN ~~MAY DENY INSPECTION OF A PART~~ OF A RECORD KEPT BY A PUBLIC INSTITUTION OF HIGHER EDUCATION THAT CONTAINS PERSONAL INFORMATION RELATING TO A STUDENT, FORMER STUDENT, OR APPLICANT ~~THAT CONTAINS THE FOLLOWING INFORMATION,~~ MAY:

(I) REQUIRE THAT A REQUEST TO INSPECT A RECORD CONTAINING PERSONAL INFORMATION BE MADE IN WRITING AND SENT BY FIRST–CLASS MAIL; AND

(II) IF THE INFORMATION IS REQUESTED FOR COMMERCIAL PURPOSES~~:~~, DENY INSPECTION OF THE PART OF THE RECORD CONTAINING THE PERSONAL INFORMATION.

~~(I) AN ADDRESS;~~

~~**(II) A PHONE NUMBER;**~~

~~**(III) AN EMAIL ADDRESS; OR**~~

~~**(IV) DIRECTORY INFORMATION.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 84

(House Bill 697)

AN ACT concerning

Health Occupations – State Board of Examiners of Nursing Home Administrators – Minimum Age Requirement

FOR the purpose of altering the minimum age for licensure as a nursing home administrator; and generally relating to the minimum age requirement for licensure as a nursing home administrator.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 9–302(a) and (b)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 9–302(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health Occupations

9–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least **[**18**]** **21** years old.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 85

(House Bill 700)

AN ACT concerning

Workers' Compensation – Permanent Partial Disability – Compensation

FOR the purpose of increasing, in a certain manner, the maximum weekly benefit by a certain amount for a permanent partial disability claim that is awarded to a covered employee for a period of less than a certain number of weeks; providing for the application of this Act; making certain conforming changes; providing for a delayed effective date; and generally relating to compensation for a permanent partial disability under workers' compensation law.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–628
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–629 and 9–630(a)(1)
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

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

Article – Labor and Employment

9–628.

(a) In this section, "public safety employee" means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life support worker who is a covered employee under § 9–234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(3) a police officer employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) the Maryland–National Capital Park and Planning Commission;

(4) a Prince George's County deputy sheriff;

(5) a Montgomery County deputy sheriff or correctional officer; or

(6) a Howard County deputy sheriff, but only when the deputy sheriff is performing law enforcement duties expressly requested, defined, and authorized in accordance with a written memorandum of understanding executed between the Howard County Sheriff and other law enforcement agencies.

(b) Except as provided in subsections ~~(f) and (g)~~ **(G) AND (H)** of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $80.

(c) Except as provided in subsections ~~(f) and (g)~~ **(G) AND (H)** of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $82.50.

(d) Except as provided in subsections ~~(f) and (g)~~ **(G) AND (H)** of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $94.20.

(e) Except as provided in subsections ~~(f) and (g)~~ **(G) AND (H)** of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed ~~[~~$114~~]~~ ~~ONE–FIFTH OF THE STATE AVERAGE WEEKLY WAGE~~.

(F) EXCEPT AS PROVIDED IN SUBSECTIONS (G) AND (H) OF THIS SECTION, IF A COVERED EMPLOYEE IS AWARDED COMPENSATION FOR LESS THAN 75 WEEKS, THE EMPLOYER OR ITS INSURER SHALL PAY TO THE COVERED EMPLOYEE COMPENSATION THAT EQUALS ONE–THIRD OF THE AVERAGE WEEKLY WAGE OF THE COVERED EMPLOYEE BUT DOES NOT EXCEED:

(1) FOR CLAIMS ARISING FROM EVENTS OCCURRING ON OR AFTER JANUARY 1, 2009, BUT BEFORE JANUARY 1, 2010, 14.3% OF THE STATE AVERAGE WEEKLY WAGE;

(2) FOR CLAIMS ARISING FROM EVENTS OCCURRING ON OR AFTER JANUARY 1, 2010, BUT BEFORE JANUARY 1, 2011, 15.4% OF THE STATE AVERAGE WEEKLY WAGE; AND

(3) FOR CLAIMS ARISING FROM EVENTS OCCURRING ON OR AFTER JANUARY 1, 2011, 16.7% OF THE STATE AVERAGE WEEKLY WAGE.

~~(f)~~ **(G)** If a covered employee is awarded compensation for less than 75 weeks for a disability listed in § 9–627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

~~(g)~~ **(H)** If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

9–629.

If a covered employee is awarded compensation for a period equal to or greater than 75 weeks but less than 250 weeks, the employer or its insurer shall pay the covered employee weekly compensation that equals two–thirds of the average weekly wage of the covered employee but does not exceed one–third of the State average weekly wage.

9–630.

(a) (1) Except as provided in paragraph (2) of this subsection, if a covered employee is given an award or a combination of awards resulting from 1 accidental personal injury or occupational disease for 250 weeks or more under § 9–627 of this subtitle:

(i) the Commission shall increase the award or awards by one–third the number of weeks in the award or awards, computed to the nearest whole number; and

(ii) the employer or its insurer shall pay the covered employee weekly compensation that equals two–thirds of the average weekly wage of the covered employee, but does not exceed 75% of the State average weekly wage.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claims ~~for permanent partial disability filed~~ arising from events occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2008~~ January 1, 2009.

Approved by the Governor, April 8, 2008.

CHAPTER 86

(House Bill 703)

AN ACT concerning

Alcoholic Beverages – Special Brewery Promotional Event Permit

FOR the purpose of establishing a special brewery promotional event permit; authorizing the Office of the Comptroller to issue a permit to a holder of a Class 5 manufacturer's license; authorizing a permit holder to provide certain beer samples and sell beer at a promotional event under certain circumstances; specifying certain restrictions on the frequency and duration of promotional events; providing for a certain fee; requiring a permit application be filed at a certain time; and generally relating to special brewery promotional event permits.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 2–206(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 2–206(c)

Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

2–206.

(a) A Class 5 manufacturer's license:

(1) Is a brewery license; and

(2) Authorizes the holder to:

(i) Establish and operate in this State a plant for brewing and bottling malt beverages at the location described in the license;

(ii) Import beer from holders of nonresident dealer's permits; and

(iii) Sell and deliver beer to any wholesale licensee in this State, or person outside of this State, authorized to acquire it.

(C) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A SPECIAL BREWERY PROMOTIONAL EVENT PERMIT TO A HOLDER OF A CLASS 5 MANUFACTURER'S LICENSE.

(2) THE PERMIT AUTHORIZES THE HOLDER TO CONDUCT ON THE PREMISES OF THE BREWERY A PROMOTIONAL EVENT AT WHICH THE HOLDER MAY:

(I) PROVIDE SAMPLES OF NOT MORE THAN 2 FLUID OUNCES PER BRAND TO CONSUMERS; AND

(II) SELL BEER PRODUCED BY THE HOLDER TO PERSONS WHO PARTICIPATE IN THE EVENT.

(3) THE BEER AT THE EVENT SHALL BE SOLD BY THE GLASS AND FOR CONSUMPTION ON THE PREMISES ONLY.

(4) A HOLDER OF A CLASS 5 MANUFACTURER'S LICENSE MAY NOT BE ISSUED MORE THAN ~~SIX~~ FOUR PERMITS IN A CALENDAR YEAR.

(5) A SINGLE PROMOTIONAL EVENT MAY NOT EXCEED 3 CONSECUTIVE DAYS.

(6) THE PERMIT FEE IS $25 PER EVENT.

(7) TO OBTAIN A PERMIT, A PERSON, AT LEAST 15 DAYS BEFORE THE EVENT, SHALL FILE WITH THE OFFICE OF THE COMPTROLLER AN APPLICATION THAT THE OFFICE PROVIDES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 87

(House Bill 705)

AN ACT concerning

Department of State Police – School Bus Safety Enforcement Fund – Transfer to Governor's Office of Crime Control and Prevention

FOR the purpose of transferring the administration of the School Bus Safety Enforcement Fund from the Department of State Police to the Governor's Office of Crime Control and Prevention; transferring the functions of the Secretary of the State Police relating to the School Bus Safety Enforcement Fund to the Executive Director of the Governor's Office of Crime Control and Prevention; defining a certain term; and generally relating to the Governor's Office of Crime Control and Prevention and the administration of the School Bus Safety Enforcement Fund.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 4–201 through 4–204
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Public Safety

4–201.

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

(B) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

[(b)**] (C)** "Fund" means the School Bus Safety Enforcement Fund.

[(c)**] (D)** "Law enforcement agency" means the Department of State Police, the police department of a county or municipal corporation, or a sheriff's office.

[(d)**] (E)** "School vehicle" has the meaning stated in § 11–154 of the Transportation Article.

[(e) "Secretary" means the Secretary of State Police.**]**

4–202.

(a) There is a School Bus Safety Enforcement Fund.

(b) The purpose of the Fund is to assist law enforcement agencies in addressing the problem of drivers illegally failing to stop for school vehicles.

(c) (1) The **[**Secretary**] EXECUTIVE DIRECTOR** shall administer the Fund.

(2) The **[**Secretary**] EXECUTIVE DIRECTOR** shall receive from the Fund each fiscal year the amount, not exceeding $50,000 in a fiscal year, necessary to offset its costs in administering this subtitle.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund in conjunction with the **[**Secretary**] EXECUTIVE DIRECTOR**.

(e) The Fund consists of:

(1) money credited to the Fund under § 17–106(e) of the Transportation Article;

(2) money from any other source accepted for the benefit of the Fund; and

(3) investment earnings of the Fund.

(f) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(g) Expenditures from the Fund may only be made:

(1) in accordance with the State budget; or

(2) by the budget amendment procedure as provided in § 7–209 of the State Finance and Procurement Article, if at least 45 days have passed since the budget amendment and supporting information were submitted to the budget committees for their review and comment.

4–203.

(a) The **[**Secretary**]** **EXECUTIVE DIRECTOR** may make grants to law enforcement agencies from the Fund.

(b) The **[**Secretary**]** **EXECUTIVE DIRECTOR** shall establish procedures for law enforcement agencies to apply for grants from the Fund and for the evaluation of progress in addressing the problem of drivers illegally failing to stop for school vehicles.

(c) When making grants from the Fund, the **[**Secretary**]** **EXECUTIVE DIRECTOR** shall consider:

(1) the extent of the problem of drivers illegally failing to stop for school vehicles in the area identified by the law enforcement agency applying for a grant;

(2) the law enforcement agency's goals and plans with respect to enhanced enforcement efforts that relate to § 21–706 of the Transportation Article; and

(3) other factors that the **[**Secretary**]** **EXECUTIVE DIRECTOR** considers appropriate that relate to drivers illegally failing to stop for school vehicles.

(d) (1) Except as provided in paragraph (2) of this subsection, the **[**Secretary**]** **EXECUTIVE DIRECTOR** may not make a grant from the Fund exceeding $35,000 in a fiscal year for use in a single county.

(2) If money remains available in the Fund after grants are initially awarded in a fiscal year, the **[**Secretary**]** **EXECUTIVE DIRECTOR** may make supplemental grants to law enforcement agencies in accordance with procedures established by the **[**Secretary**]** **EXECUTIVE DIRECTOR**.

(e) A law enforcement agency that receives a grant under this subtitle:

(1) may use the grant only in accordance with the terms of the grant for efforts that relate to the enforcement of § 21–706 of the Transportation Article; and

(2) shall comply with reporting requirements established by the **[**Secretary**]** **EXECUTIVE DIRECTOR** to evaluate:

(i) the law enforcement agency's enforcement efforts under the grant; and

(ii) statewide enforcement efforts under this subtitle.

4–204.

On or before September 1 of each year, the **[**Secretary**]** **EXECUTIVE DIRECTOR** shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on:

(1) the status of the Fund;

(2) the grants made under this subtitle;

(3) the costs of administering this subtitle; and

(4) the effect of this subtitle in reducing the problem of drivers illegally failing to stop for school vehicles.

SECTION 2. AND BE IT FURTHER ENACTED, That on July 1, 2008, all the functions, powers, duties, assets, and liabilities of the School Bus Safety Enforcement Fund within the Department of State Police shall be transferred to the Governor's Office of Crime Control and Prevention.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 88

(House Bill 750)

AN ACT concerning

Insurance – Notice of Cancellation of Binders or Policies – Certificate of Mail

FOR the purpose of requiring that a certain notice of cancellation of certain binders or policies of insurance be sent by certificate of mail; and generally relating to cancellations of binders or policies of insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 12–106
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Insurance

12–106.

(a) In this section, "personal insurance" means property insurance or casualty insurance issued to an individual, trust, estate, or similar entity that is intended to insure against loss arising principally from the personal, noncommercial activities of the insured.

(b) This section applies only to a binder or policy, other than a renewal policy, of personal insurance, commercial property insurance, and commercial liability insurance.

(c) A binder or policy is subject to a 45–day underwriting period beginning on the effective date of coverage.

(d) An insurer may cancel a binder or policy during the underwriting period if the risk does not meet the underwriting standards of the insurer.

(e) If applicable, at the time of application or when a binder or policy is issued, an insurer shall provide written notice of its ability to cancel a binder or policy during the underwriting period.

(f) (1) Except as provided in paragraph (2) of this subsection, a notice of cancellation under this section shall:

(i) be in writing;

(ii) have an effective date not less than 15 days after mailing; **[**and**]**

(iii) state clearly and specifically the insurer's actual reason for the cancellation**; AND**

(IV) BE SENT BY CERTIFICATE OF MAIL.

(2) A notice of cancellation under this section for nonpayment of premium shall:

(i) be in writing;

(ii) have an effective date of not less than 10 days after mailing;

(iii) state the insurer's intent to cancel for nonpayment of premium; and

(iv) be sent by certificate of mail.

(g) A binder or other contract for temporary insurance:

(1) may be made orally or in writing; and

(2) except as superseded by the clear and express terms of the binder, is considered to include:

(i) all the usual terms of the policy as to which the binder was given; and

(ii) the applicable endorsements designated in the binder.

(h) A binder is no longer valid after the policy as to which it was given is issued.

(i) (1) If a binder is given to a consumer borrower to satisfy a lender's requirement that the borrower obtain property insurance or credit loss insurance as a condition of making a loan secured by a first mortgage or first deed of trust on an interest in owner–occupied residential real property, the insurer or its insurance producer shall include in or with the binder:

(i) the name and address of the insured consumer borrower;

(ii) the name and address of the lender;

(iii) a description of the insured residential real property;

(iv) a provision that the binder may not be canceled within the term of the binder unless the lender and the insured borrower receive written notice at least 15 days before the cancellation;

(v) except in the case of the renewal of a policy after the closing of a loan, a paid receipt for the full amount of the applicable premium; and

(vi) the amount of coverage.

(2) With respect to a binder given under this subsection, an insurer:

(i) if the binder is to be canceled, shall give the lender and the insured consumer borrower at least 15 days' written notice before the cancellation; and

(ii) within 45 days after the date the binder was given, shall issue a policy of insurance or provide the required notice of cancellation of the binder.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 89

(House Bill 751)

AN ACT concerning

Financial Institutions – Regulatory Reforms

FOR the purpose of substituting a notice requirement for an application by a banking institution or credit union to install certain automated teller machines; clarifying that a notice by a banking institution or credit union to install an automated teller machine is not required under certain circumstances; altering the circumstances under which the Commissioner of Financial Regulation is required to give a banking institution or credit union notice of a certain deficiency; requiring certain individuals to provide fingerprints under certain circumstances; increasing the minimum amount of capital required to charter certain commercial banks that do not accept deposits or retain deposits in a deposit account; authorizing, instead of requiring, the board of directors of a commercial bank to fill a certain vacancy under certain circumstances; authorizing, instead of requiring, the board of directors of a savings bank to fill a certain vacancy under certain circumstances; ~~increasing the amount of~~ altering a certain civil penalty; authorizing banking institutions to have certain affiliates under certain circumstances; requiring application to and prior approval of the Commissioner to acquire or establish an affiliate or conduct a certain activity under certain circumstances; authorizing certain banking institutions to acquire or establish an affiliate or conduct a certain activity by providing a certain notice to the Commissioner under certain circumstances; establishing a certain exception to the application and notice requirements; requiring a banking institution to obtain certain information before making a certain loan; establishing an exception to the requirement that certain foreign banking corporations obtain a permit from the Commissioner under certain circumstances; repealing a certain requirement that the Commissioner receive the advice of the Banking Board under certain circumstances; defining a certain term; and generally relating to the regulation of financial institutions.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 1–403, 3–209, 3–409, 4–508, 5–101, 5–208, 5–403, 5–506, 12–207, and 12–209
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Financial Institutions
Section 3–203.1
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Financial Institutions
Section 5–401
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Financial Institutions

1–403.

(a) **[**If the Commissioner approves,**]** **SUBJECT TO THIS SECTION,** a banking institution or credit union may have an automated teller machine at a location other than the principal office or a branch of a banking institution or credit union.

(b) (1) **[**The Commissioner may approve a proposed automated teller machine only if:

(i) The banking institution or credit union files with the Commissioner an application in the form that the Commissioner requires; and

(ii) The Commissioner determines that it will be an effective and efficient service, consistent with safety and soundness and the security of the transactions.

(2) (i) The Commissioner shall determine whether to approve an application for an automated teller machine within 30 days after the receipt of a completed application.

(ii) An application for an automated teller machine shall be deemed approved if the Commissioner takes no action within the 30–day period specified in subparagraph (i) of this paragraph.**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AT LEAST 15 BUSINESS DAYS BEFORE COMMENCING THE INSTALLATION OF AN AUTOMATED TELLER MACHINE, A BANKING INSTITUTION OR CREDIT UNION SHALL SUBMIT TO THE COMMISSIONER WRITTEN NOTICE OF ITS INTENT TO INSTALL THE AUTOMATED TELLER MACHINE.**

(2) NO WRITTEN NOTICE OF INTENT TO INSTALL AN AUTOMATED TELLER MACHINE IS REQUIRED IF THE AUTOMATED TELLER MACHINE IS TO BE LOCATED AT THE PRINCIPAL OFFICE OR A BRANCH OF A BANKING INSTITUTION OR CREDIT UNION.

(c) (1) An automated teller machine may receive and dispense money as instructed by a customer.

(2) A banking institution or credit union may verify by direct wire transmission or otherwise any transaction that is made by means of an automated teller machine.

(3) The Commissioner may adopt rules and regulations that are substantially similar to those rules and regulations of the Comptroller of the Currency for the operation and shared use of automated teller machines by national banking associations.

(d) (1) **[**If, after an automated teller machine is approved,**]** **IF, AFTER THE COMMISSIONER RECEIVES THE NOTICE REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION OR THE AUTOMATED TELLER MACHINE IS INSTALLED,** any requirement of this section is not being met, **OR IF THE COMMISSIONER DETERMINES THAT THE OPERATION OF THE AUTOMATED TELLER MACHINE IS NOT CONSISTENT WITH SAFETY AND SOUNDNESS AND THE SECURITY OF THE TRANSACTIONS,** the Commissioner shall give the banking institution or credit union notice of the deficiency.

(2) On notice of deficiency, a banking institution or credit union shall stop using the automated teller machine.

(3) If the Commissioner determines that the deficiency has been corrected, the banking institution or credit union may resume use of the automated teller machine.

(e) For purposes of this article, an automated teller machine is not a branch of a banking institution or credit union.

3–203.1.

(A) IN THIS SECTION, "EXECUTIVE OFFICER" HAS THE MEANING STATED IN 12 C.F.R. § 215.2.

(B) IN CONNECTION WITH THE FILING OF ARTICLES OF INCORPORATION OF A COMMERCIAL BANK WITH THE COMMISSIONER ~~AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS~~, EACH INCORPORATOR, EXECUTIVE OFFICER, AND DIRECTOR OF A PROPOSED OR INCORPORATED COMMERCIAL BANK SHALL PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF INVESTIGATION AND THE CRIMINAL JUSTICE INFORMATION

SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

(C) AN INDIVIDUAL REQUIRED BY THIS SECTION TO PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING OR OTHER FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION OR THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

3–209.

(a) (1) Before the Commissioner issues a certificate to do business, the required capital stock and the required surplus shall be paid in full.

(2) A commercial bank shall have required capital stock that equals at least:

(i) $750,000, if it is in a municipal area with not more than 50,000 inhabitants; **AND**

(ii) $1.5 million, if it is in a municipal area with more than 50,000 inhabitants**[**; and

(iii) Notwithstanding the municipal area in which the commercial bank is located, the lowest minimum amount of capital required under this subsection, if the bank is not in the business of accepting deposits or retaining funds in a deposit account as defined in § 5–509 of this article**]**.

(3) A commercial bank shall have a surplus in an amount that equals at least 20 percent of its required capital stock.

(b) (1) Before a commercial bank establishes a branch, the commercial bank shall have capital stock and surplus as provided in this subsection.

(2) For a branch that is to be located inside the municipal area of the principal banking office of the commercial bank, the commercial bank shall have capital stock and surplus that equal at least the sum of the amounts required by subsection (a) of this section.

(3) For a branch that is to be located outside the municipal area of the principal banking office of the commercial bank, the commercial bank shall have capital stock and surplus that equal at least the sum of:

(i) The amount required by subsection (a) of this section; and

(ii) 1. $120,000, if it is in a municipal area with not more than 25,000 inhabitants;

2. $180,000, if it is in a municipal area with more than 25,000 and not more than 100,000 inhabitants;

3. $240,000, if it is in a municipal area with more than 100,000 and not more than 250,000 inhabitants; and

4. $900,000, if it is in a municipal area with more than 250,000 inhabitants.

(c) Unless otherwise provided by law, the unimpaired capital and surplus of a commercial bank include its debt instruments issued under § 3–312 of this title.

3–409.

The board of directors of a commercial bank **[**shall**]** **MAY** fill any vacancy on the board by electing an individual to serve until the next annual meeting of the stockholders and until a successor is elected and qualifies.

4–508.

The board of directors of a savings bank **[**shall**]** **MAY** fill any vacancy on the board by electing an individual to serve until the next annual meeting of the members or the stockholders of a subsidiary bank and until a successor is elected and qualifies.

5–101.

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

(b) **"CAMELS" MEANS THE COMPOSITE RATING ADOPTED BY THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL TO EVALUATE THE ADEQUACY OF CAPITAL, QUALITY OF ASSETS, CAPABILITY OF MANAGEMENT, QUALITY AND LEVEL OF EARNINGS, ADEQUACY OF LIQUIDITY, AND SENSITIVITY TO MARKET RISK.**

(C) "Capital stock" includes both common and preferred stock of a commercial bank.

[(c)**] (D)** "Examiner" means:

(1) The Commissioner; and

(2) An individual whom the Commissioner designates as examiner.

[(d)**] (E)** "Federal banking authority" means, as the context requires:

(1) The Federal Deposit Insurance Corporation;

(2) The Federal Reserve Bank of Richmond; or

(3) Any other appropriate federal banking authority.

[(e)**] (F)** "Savings bank" means an institution that:

(1) Is incorporated under the laws of this State as a savings bank; and

(2) Engages only in the business of savings banking.

[(f)**] (G)** "Trust company" means an institution that is incorporated under the laws of this State as a trust company.

5–208.

(a) If a banking institution or an other–state bank fails to make any report or submit proof of publication as required by this article, the banking institution or other–state bank is subject, in the discretion of the Commissioner, to a civil penalty ~~of~~ **NOT EXCEEDING** **[**$50**] $500** for each day that the report or proof is overdue.

(b) The Commissioner may institute proceedings to enforce this section.

5–401.

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

(b) "Affiliate" means any association, corporation, business trust, or other similar organization that:

(1) Is not a bank service corporation and is controlled by a banking institution through:

(i) Direct or indirect ownership or control of more than 50 percent of the voting rights;

(ii) Control of the election of a majority of the management;

(iii) Direct or indirect ownership or control of more than 50 percent of the voting rights exercised at the last election of the management;

(iv) Directors of the banking institution constituting a majority of the management of the organization; or

(v) Any direct or indirect control by stockholders of the banking institution, if the stockholders own or control:

1. More than 50 percent of the voting rights in the banking institution; or

2. More than 50 percent of the voting rights exercised at the last election of directors of the banking institution; or

(2) Controls a banking institution through:

(i) Direct or indirect ownership or control of more than 50 percent of the voting rights;

(ii) Control of the election of a majority of the directors of the banking institution;

(iii) Direct or indirect ownership or control of more than 50 percent of the voting rights exercised at the last election of the directors; or

(iv) The holding of substantially all of the capital stock of the banking institution by trustees for stockholders of the organization.

(c) "Bank service corporation" means a corporation:

(1) At least some of the stock of which is owned by a banking institution; and

(2) That is organized to perform bank service corporation activities of the type permitted under applicable provisions of Title 12 of the United States Code to a bank service corporation owned exclusively by national banking associations.

(d) "Management" means the directors, trustees, or other persons exercising similar functions of an association, corporation, business trust, or other similar organization.

5–403.

(a) **[**Except as provided in this section, or otherwise expressly provided by State law, a banking institution may not have an affiliate**]** **SUBJECT TO THIS SECTION, A BANKING INSTITUTION MAY HAVE AN AFFILIATE THAT:**

(1) PROVIDES A FINANCIAL, FIDUCIARY, OR INSURANCE SERVICE TO THE BANKING INSTITUTION, ITS OTHER AFFILIATES, OR THE PUBLIC; OR

(2) IF IT IS AN AFFILIATE UNDER § 5–401(B)(1)(I) OF THIS SUBTITLE, CONDUCTS AN ACTIVITY THAT IS PERMISSIBLE FOR A BANKING INSTITUTION.

(b) **[**If the Commissioner, after receiving the advice of the Banking Board, approves, a banking institution may have an affiliate that offers to the public a financial, fiduciary, or insurance service**]** **EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, A BANKING INSTITUTION THAT INTENDS TO ACQUIRE OR ESTABLISH AN AFFILIATE, OR TO CONDUCT A NEW ACTIVITY IN AN EXISTING AFFILIATE, SHALL APPLY TO AND RECEIVE THE PRIOR APPROVAL OF THE COMMISSIONER**.

(c) On application of the banking institution, an affiliate shall be approved if:

(1) The Commissioner determines that the approval is:

(i) Reasonably required to protect the welfare of the general economy of this State and of the banking institution; **[**and**]** **OR**

(ii) Not detrimental to the public interest or to the banking institution;

(2) The approval imposes the same conditions that federal law requires or permits as to a national banking association; and

(3) The transaction complies with the rules, regulations, and conditions that the Commissioner adopts.

(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, IF A BANKING INSTITUTION IS RATED CAMELS 1 OR 2 AND REMAINS WELL CAPITALIZED IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL DEPOSIT INSURANCE ACT, THE BANKING INSTITUTION MAY ACQUIRE OR ESTABLISH AN AFFILIATE, OR CONDUCT A NEW ACTIVITY IN AN EXISTING AFFILIATE IF:

(1) WITHIN 10 DAYS AFTER ACQUIRING OR ESTABLISHING THE AFFILIATE OR COMMENCING THE ACTIVITY, THE BANKING INSTITUTION PROVIDES NOTICE TO THE COMMISSIONER OF THE ACQUISITION OR ESTABLISHMENT OF THE AFFILIATE OR THE ACTIVITY; AND

(2) THE AFFILIATE ONLY ENGAGES IN ANY OF THE FOLLOWING ACTIVITIES:

(I) HOLDING AND MANAGING ASSETS ACQUIRED BY THE BANKING INSTITUTION THROUGH FORECLOSURE OR OTHERWISE IN GOOD FAITH TO COMPROMISE A DOUBTFUL CLAIM, OR IN THE ORDINARY COURSE OF COLLECTING A DEBT PREVIOUSLY CONTRACTED;

(II) PROVIDING DIRECT SERVICES TO THE BANKING INSTITUTION OR OTHER AFFILIATES;

(III) MAKING, PURCHASING, SELLING, OR SERVICING FOR OTHERS LOANS OR OTHER EXTENSIONS OF CREDIT; OR

(IV) LEASING PERSONAL PROPERTY.

(E) NO APPLICATION OR NOTICE IS REQUIRED IF THE ACTIVITIES OF A NEW AFFILIATE:

(1) ARE LIMITED TO THOSE ACTIVITIES PREVIOUSLY REPORTED BY THE BANKING INSTITUTION TO THE COMMISSIONER IN CONNECTION WITH THE ESTABLISHMENT OR ACQUISITION OF A PRIOR AFFILIATE;

(2) CONTINUE TO BE LEGALLY PERMISSIBLE FOR BANKING INSTITUTIONS; AND

(3) WILL BE CONDUCTED SUBJECT TO THE SAME CONDITIONS IMPOSED BY THE COMMISSIONER FOR THE PRIOR AFFILIATE.

(F) ALL ACTIVITIES AND THE ESTABLISHMENT OR ACQUISITION OF AN AFFILIATE UNDER SUBSECTION (D) OF THIS SECTION ARE SUBJECT TO:

(1) THE SAME CONDITIONS THAT FEDERAL LAW REQUIRES OR PERMITS AS TO A NATIONAL BANKING ASSOCIATION; AND

(2) THE RULES, REGULATIONS, AND CONDITIONS THAT THE COMMISSIONER ADOPTS.

5–506.

Before a banking institution makes an unsecured loan of **[**$5,000**]** **$10,000** or more to any person, the banking institution shall obtain sufficient financial information from the person to support the loan.

12–207.

(A) [A**]** **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A** foreign banking corporation may not have an office in this State for any purpose unless:

(1) The foreign banking corporation obtains from the Commissioner a permit for the office; or

(2) The office is authorized under:

(i) The Riegle–Neal Interstate Banking and Branching Efficiency Act of 1994 or other federal law; or

(ii) Title 5, Subtitle 9 or Subtitle 10 of this article.

(B) A FOREIGN BANKING CORPORATION THAT MAINTAINS ANOTHER LICENSE ISSUED BY THE COMMISSIONER IS EXEMPT FROM OBTAINING A PERMIT UNDER THIS SECTION.

12–209.

On application for a permit, the Commissioner**[**, after receiving the advice of the Banking Board,**]** shall issue the permit, if the Commissioner determines that the establishment and operations of the proposed office will not violate any law of this State that applies to banks and banking.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 90

(House Bill 787)

AN ACT concerning

Noise Control – Carroll County Public Schools – Enforcement Prohibition

FOR the purpose of prohibiting Carroll County or a political subdivision of Carroll County from enforcing any noise control ordinance, rule, or regulation against a public school in Carroll County that violates the ordinance, rule, or regulation between certain hours; and generally relating to enforcement of noise control ordinances, rules, or regulations against a public school in Carroll County.

BY repealing and reenacting, with amendments,
Article – Environment
Section 3–105
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

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

Article – Environment

3–105.

(a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.

(2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(3) (i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2001.

(ii) This paragraph does not apply in Allegany, Anne Arundel, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2005.

(ii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the Department determines is not in compliance as of January 1, 2005 with environmental noise standards, sound level limits, or noise control rules or regulations adopted under this title.

2. A noise control ordinance, rule, or regulation adopted under subsubparagraph 1 of this subparagraph shall allow trapshooting, skeetshooting, and other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the Department determines has become compliant with environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(5) CARROLL COUNTY OR A POLITICAL SUBDIVISION OF CARROLL COUNTY MAY NOT ENFORCE ANY NOISE CONTROL ORDINANCE, RULE, OR REGULATION, INCLUDING THE ENVIRONMENTAL NOISE STANDARDS, SOUND LEVEL LIMITS, AND NOISE CONTROL RULES AND REGULATIONS ADOPTED UNDER THIS TITLE, AGAINST A PUBLIC SCHOOL IN CARROLL COUNTY THAT VIOLATES THE ORDINANCE, RULE, OR REGULATION BETWEEN THE HOURS OF 8 A.M. AND 9:30 P.M.

(b) Each political subdivision:

(1) Shall send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts;

(2) Shall identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title; and

(3) Is encouraged to consider:

(i) Compliance with State or local noise standards before acting on any proposed variance requests or changes in zoning classifications; and

(ii) Whether the permit or activity will be in compliance with local and State noise control standards, prior to the issuance of a building, activity permit, or similar authorizing document.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 91

(House Bill 790)

AN ACT concerning

Department of Health and Mental Hygiene – Child Abuse Medical Providers Initiative

FOR the purpose of altering the name of a certain initiative in the Department of Health and Mental Hygiene; altering the duties of the Child Abuse Medical Providers (Maryland CHAMP) Faculty; authorizing Maryland CHAMP to receive certain information from and consult with the Department; altering the name of a certain initiative that the Governor is required to include funding for in the State budget in a certain fiscal year; altering the name of a certain initiative that the Governor is required to include certain amounts for in the annual budget bill in certain fiscal years; and generally relating to the Child Abuse Medical Providers (Maryland CHAMP) Initiative in the Department of Health and Mental Hygiene.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–2201, 13–2202, 13–2203, 13–2204, 13–2206, and 13–2207(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–2207(a) and (b)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

13–2201.

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

(b) **[**"Center of Excellence"**]** **"CHILD ABUSE MEDICAL PROVIDERS (MARYLAND CHAMP)"** means a **[**local or regional multidisciplinary team of**]** **NETWORK OF MARYLAND** health care professionals **[**and health care facilities**]** with the expertise to **[**diagnose**]** **ADDRESS THE PREVENTION, DIAGNOSIS** and **[**treat**]** **TREATMENT OF** child abuse and neglect **WHILE WORKING CLOSELY WITH OTHER DISCIPLINES AND ORGANIZATIONS ADDRESSING THESE ISSUES, INCLUDING CHILD ADVOCACY CENTERS**.

(c) **[**"Centers of Excellence"**]** **"CHILD ABUSE MEDICAL PROVIDERS (MARYLAND CHAMP)** faculty" means a core group of clinical experts, as designated by the Department, who provide training, consultation, and support for the diagnosis and treatment of child abuse and neglect to health care professionals.

(d) "Child advocacy center" means **[**an**]** **A CHILD–FOCUSED** entity within or outside a health care facility that **[**diagnoses**]** **INVESTIGATES, DIAGNOSES,** and treats **[**child abuse and neglect**]** **CHILDREN WHO MAY HAVE BEEN ABUSED OR NEGLECTED THAT:**

(1) INCLUDES LOCAL LAW ENFORCEMENT OFFICERS, LOCAL CRIMINAL PROSECUTORS, AND THE LOCAL DEPARTMENT OF SOCIAL SERVICES; AND

(2) MAY INCLUDE CHILD MENTAL HEALTH SERVICE PROVIDERS AND OTHER CHILDREN AND FAMILY SERVICE PROVIDERS.

(e) "Initiative" means the Child Abuse **[**and Neglect Centers of Excellence**]** **MEDICAL PROVIDERS (MARYLAND CHAMP)** Initiative.

(f) "Multidisciplinary team" means a group of professionals with expertise in various health care and social service professional disciplines who provide consultation, treatment, and planning in cases of child abuse and neglect.

13–2202.

(a) There is a Child Abuse **[**and Neglect Centers of Excellence**]** **MEDICAL PROVIDERS (MARYLAND CHAMP)** Initiative in the Department.

(b) The purposes of the Initiative are:

(1) To improve the protection of children in the State;

(2) To recruit local physicians to gain clinical expertise in the diagnosis and treatment of child abuse and neglect;

(3) To develop and guide the practice of local or regional multidisciplinary teams to improve the **MEDICAL** assessment and treatment of children who are the subject of a child abuse or neglect investigation or a child in need of assistance;

(4) To facilitate the appropriate prosecution of criminal child abuse and neglect; and

(5) To provide expert consultation and training to local or regional multidisciplinary teams in the diagnosis and treatment of physical child abuse and neglect and sexual abuse through teleconferencing and on–site services.

13–2203.

The **[**Centers of Excellence**]** **CHILD ABUSE MEDICAL PROVIDERS (MARYLAND CHAMP)** faculty shall:

(1) Assist local and regional jurisdictions to develop standards and protocols for the composition and operation of local or regional **[**Centers of Excellence**]** **CHILD ABUSE MEDICAL PROVIDERS (MARYLAND CHAMP)**;

(2) Provide training and consultation to local or regional **[**Centers of Excellence**]** **CHILD ABUSE MEDICAL PROVIDERS (MARYLAND CHAMP)** in the diagnosis and treatment of child abuse and neglect;

(3) **[**Inventory existing academic and emergency resources available for teleconferencing and facilitate the use of these resources for child abuse and neglect investigations and treatment plans; and

(4)**]** Provide financial support to part–time local and regional expert clinic staff for the diagnosis and treatment of child abuse and neglect**;**

(4) COLLABORATE WITH LOCAL OR REGIONAL CHILD ADVOCACY CENTERS AND FORENSIC NURSE EXAMINER PROGRAMS; AND

(5) HELP ASSURE THAT MEDICAL PROFESSIONALS HAVE ACCESS TO INFORMATION ON HOW TO COOPERATE WITH LOCAL DEPARTMENTS OF SOCIAL SERVICES, CHILD ADVOCACY CENTERS, AND LOCAL LAW ENFORCEMENT OFFICERS TO:

(I) PROTECT CHILDREN FROM TRAUMA DURING THE PROCESS OF CHILD ABUSE AND NEGLECT INVESTIGATIONS AND PROSECUTION;

(II) MINIMIZE THE NUMBER OF TIMES EACH CHILD IS INTERVIEWED AND EXAMINED; AND

(III) MINIMIZE THE POTENTIAL FOR INFLUENCING A CHILD'S STATEMENT.

13–2204.

A **[**Center of Excellence**] CHILD ABUSE MEDICAL PROVIDER (MARYLAND CHAMP)** may receive information from the Department and may consult with the Department on any case:

(1) Referred from the Children in Need of Assistance program;

(2) Concerning a child committed to the Department or a local department of social services; or

(3) Concerning a child who is the subject of a child abuse or neglect investigation.

13–2206.

(a) In fiscal year 2007, the Governor shall include in the State budget an appropriation in the amount of $225,000 for the Child Abuse **[**and Neglect Centers of Excellence**] MEDICAL PROVIDERS (MARYLAND CHAMP)** Initiative.

(b) In each fiscal year beginning with fiscal 2008, the Governor shall include in the annual budget bill submitted to the General Assembly a General Fund

appropriation for the Child Abuse **[**and Neglect Centers of Excellence**]** **MEDICAL PROVIDERS (MARYLAND CHAMP)** Initiative in an amount not less than the amount of the General Fund appropriation for the Initiative as approved in the State budget as enacted by the General Assembly for the prior fiscal year, increased by not less than the percentage by which the projected total General Fund revenues for the upcoming fiscal year exceed the revised estimate of total General Fund revenues for the current fiscal year, as contained in the report of the estimated State revenues submitted by the Board of Revenue Estimates to the Governor under § 6–106(b) of the State Finance and Procurement Article.

(c) The Office of Legislative Audits shall audit the accounts and transactions of the Child Abuse **[**and Neglect Centers of Excellence**]** **MEDICAL PROVIDERS (MARYLAND CHAMP)** Initiative in accordance with §§ 2–1220 through 2–1227 of the State Government Article.

13–2207.

(a) In this section, "Fund" means the Children's Trust Fund.

(b) There is a Children's Trust Fund.

(c) The purpose of the Fund is to provide funding for the Child Abuse **[**and Neglect Centers of Excellence**]** **MEDICAL PROVIDERS (MARYLAND CHAMP)** Initiative.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 92

(House Bill 827)

AN ACT concerning

Montgomery County – Department of Liquor Control – Sale of Items at Dispensaries and Retail Outlets

MC 817–08

FOR the purpose of authorizing certain retail dispensary stores and retail outlets in Montgomery County to sell certain items commonly associated with the serving or consumption of alcoholic beverages, but prohibiting the sale of certain other items; and generally relating to the sale in Montgomery County of items associated with alcoholic beverages.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 15–203(d)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–203(d)(5)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

15–203.

(d) (1) This subsection applies in Montgomery County.

(5) **(I)** In county retail dispensary stores and in retail outlets operated under contract with the Director of the Department of Liquor Control only the following items may be sold:

[(i)**]** **1.** Nonchilled beer;

[(ii)**]** **2.** Wine;

[(iii)**]** **3.** Liquor;

[(iv)**]** **4.** Ice; **[**and**]**

[(v)**]** **5.** Bottled water**; AND**

6. ITEMS COMMONLY ASSOCIATED WITH THE SERVING OR CONSUMPTION OF ALCOHOLIC BEVERAGES, SUCH AS BOTTLE OPENERS, CORKSCREWS, DRINK MIXES, AND LIME JUICE.

(II) A COUNTY RETAIL DISPENSARY STORE OR RETAIL OUTLET OPERATED UNDER CONTRACT WITH THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL MAY NOT SELL SNACK FOODS AND SOFT DRINKS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 93

(House Bill 828)

AN ACT concerning

Montgomery County – Alcoholic Beverages – Additional Class B Licenses

MC 818–08

FOR the purpose of repealing certain requirements for obtaining in Montgomery County an additional Class B beer, wine and liquor (on–sale) license for certain premises; and generally relating to alcoholic beverages licenses in Montgomery County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–102.1(a) and (b)(1) and (4)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–102.1(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

9–102.1.

(a) This section applies only in Montgomery County.

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

(4) "License" means a Class B beer, wine and liquor on–sale only license.

(e) (1) A licensee may obtain one additional license for premises which meet the qualifications specified in this subsection. For identification purposes, the additional license may be referred to as a "1–year" license.

(2) An applicant for this additional license shall:

(i) Have the applicant's place of business located in this State;

(ii) Have been the holder of a license for at least 1 year; **AND**

(iii) Operate a restaurant, as defined by regulations of the Board**[**;

(iv) Have a capital investment of at least $250,000 for restaurant facilities, excluding the cost of land and buildings; and

(v) Have a seating capacity of at least 125 persons**]**.

(3) This is an on–sale license only.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 94

(House Bill 840)

AN ACT concerning

Washington County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person in Washington County to hunt deer on certain Sundays on private property with a bow and arrow during certain months; and generally relating to hunting on private property on Sundays.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 10–410(a)(1)
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–410(a)(2)
Annotated Code of Maryland
(2007 Replacement Volume)

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

Article – Natural Resources

10–410.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen–reared game birds:

A. Pheasants;

B. Bobwhite quail;

C. Chukar partridge;

D. Hungarian partridge;

E. Tower released flighted mallard ducks; and

F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays; and

(iv) Subject to the provisions of § 10–411 of this subtitle, in Dorchester, St. Mary's, Somerset, **WASHINGTON,** Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow during open season on the last three Sundays in October and the second Sunday in November.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 95

(House Bill 859)

AN ACT concerning

Property and Casualty Insurance Policies – Coverage for Additional Living Expenses

FOR the purpose of prohibiting certain language limiting coverage for additional living expenses incurred by an insured as a result of a covered loss in a policy of homeowner's, fire, farmowner's, or dwelling insurance; specifying that certain language in a policy of homeowner's, fire, farmowner's, or dwelling insurance is void; specifying that certain actions by an insurer are not prohibited under this Act; authorizing the Maryland Insurance Commissioner to require an insurer to provide coverage for additional living expenses under a certain policy for up to a certain time under certain circumstances; and generally relating to policies of homeowner's, fire, farmowner's, and dwelling insurance.

BY adding to
Article – Insurance
Section 19–208
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Insurance

19–208.

(A) A POLICY OF HOMEOWNER'S, FIRE, FARMOWNER'S, OR DWELLING INSURANCE THAT PROVIDES COVERAGE FOR ADDITIONAL LIVING EXPENSES INCURRED BY AN INSURED AS A RESULT OF A COVERED LOSS MAY NOT BE ISSUED, SOLD, OR DELIVERED IN THE STATE IF THE POLICY CONTAINS LANGUAGE THAT LIMITS COVERAGE FOR ADDITIONAL LIVING EXPENSES:

~~(1)~~ TO A PERIOD OF TIME THAT IS ~~STATED IN TERMS OF DAYS, MONTHS, OR YEARS; OR~~

~~(2) THAT OTHERWISE INCLUDES A TEMPORAL LIMITATION BASED ON A FACTOR OTHER THAN THE HABITABILITY OF THE COVERED PROPERTY~~ LESS THAN 12 MONTHS.

(B) A CLAUSE IN A POLICY OF HOMEOWNER'S, FIRE, FARMOWNER'S, OR DWELLING INSURANCE THAT PURPORTS TO LIMIT COVERAGE FOR ADDITIONAL LIVING EXPENSES INCURRED BY AN INSURED AS A RESULT OF A COVERED LOSS TO A PERIOD OF TIME THAT IS ~~STATED IN TERMS OF DAYS, MONTHS, OR YEARS OR THAT OTHERWISE INCLUDES A TEMPORAL LIMITATION BASED ON A FACTOR~~

~~**OTHER THAN THE HABITABILITY OF THE COVERED PROPERTY**~~ **LESS THAN 12 MONTHS IS VOID AND UNENFORCEABLE.**

(C) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY REQUIRE AN INSURER TO PROVIDE COVERAGE FOR ADDITIONAL LIVING EXPENSES UNDER A POLICY OF HOMEOWNER'S, FIRE, FARMOWNER'S, OR DWELLING INSURANCE FOR UP TO 24 MONTHS IF THE COMMISSIONER FINDS THAT COVERED PROPERTY REMAINS UNINHABITABLE DUE TO DELAYS IN REPAIR OR REPLACEMENT CAUSED:

(1) BY THE INSURER; OR

(2) BY FACTORS BEYOND THE CONTROL OF THE INSURED.

~~**(C)**~~ **(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO:**

(1) PROHIBIT OR PREVENT THE ENFORCEMENT OF A MONETARY LIMIT OF LIABILITY FOR ADDITIONAL LIVING EXPENSES UNDER A POLICY OF HOMEOWNER'S, FIRE, FARMOWNER'S, OR DWELLING INSURANCE;

(2) PROHIBIT AN INSURER FROM DENYING COVERAGE FOR ADDITIONAL LIVING EXPENSES IF THE CARRIER DETERMINES THAT AT THE TIME THE ADDITIONAL LIVING EXPENSES WERE INCURRED THE COVERED PROPERTY WAS NOT UNFIT TO LIVE IN; OR

(3) PROHIBIT AN INSURER FROM DENYING COVERAGE FOR ADDITIONAL LIVING EXPENSES ON THE GROUNDS THAT THE COVERED PROPERTY WAS UNFIT TO LIVE IN AT THE TIME THAT THE ADDITIONAL LIVING EXPENSES WERE INCURRED BECAUSE OF DELAYS IN REPAIR OR REPLACEMENT CAUSED BY THE INSURED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 96

(House Bill 899)

AN ACT concerning

Carroll County – Alcoholic Beverages – Special Class C License for Arts Center

FOR the purpose of authorizing the Carroll County Board of License Commissioners to issue a special Class C beer, wine and liquor license to a certain arts center in Westminster under certain conditions; and generally relating to alcoholic beverages licenses in Carroll County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 7–101(k)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 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.

(k) (1) The Carroll County Board of License Commissioners may grant special Class C beer, wine and liquor licenses which entitle the holder to exercise any of the privileges conferred by that class of license at any bona fide entertainment held or conducted by any Carroll County fire department **OR AN ARTS CENTER ON WEST MAIN STREET IN WESTMINSTER**.

(2) The license shall be in the form prescribed by the Board, and the applicant shall sign the license.

(3) The annual fee for a special license is as follows:

(i) Up to 10 events per year – $125;

(ii) Up to 20 events per year – $250;

(iii) Up to 30 events per year – $375; and

(iv) Up to 40 events per year – $500.

(4) The fee shall be paid before a license is issued.

(5) This special license may not be granted to any fire department **OR AN ARTS CENTER ON WEST MAIN STREET IN WESTMINSTER** more than one time in any year.

(6) The total number of days authorized by this special license may not exceed 40 in any calendar year.

(7) This subsection does not preclude a fire company **OR AN ARTS CENTER ON WEST MAIN STREET IN WESTMINSTER** from obtaining a single event special Class C license under other provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 97

(House Bill 929)

AN ACT concerning

Prince George's County Energy Tax – WSSC

PG/MC 115–08

FOR the purpose of providing that the sale or use of energy or fuel used by the Washington Suburban Sanitary Commission in Prince George's County is not exempt from a certain tax, except under certain circumstances; and generally relating to a certain tax on energy or fuel used in Prince George's County.

BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–603(a) and (d)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–603(b)
Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–603.

(a) Except as provided in subsection (b) of this section, the County Council for Prince George's County may impose, by ordinance, and collect, in a percentage no greater than the percentage in effect on July 1, 1992, a sales or use tax on any form of energy or fuel used in Prince George's County.

(b) **(1)** This section does not apply to:

[(1)**] (I)** Motor vehicle fuels;

[(2)**] (II)** Fuels used in the production of other forms of energy that are subject to this tax; or

[(3)**] (III)** Energy or fuel used by a municipal corporation in the county.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE SALE OR USE OF ENERGY OR FUEL USED BY THE WASHINGTON SUBURBAN SANITARY COMMISSION IN PRINCE GEORGE'S COUNTY IS NOT EXEMPT FROM THE TAX IMPOSED UNDER THIS SECTION.

(d) The County Council may:

(1) Provide exemptions from the tax imposed under this section in addition to the exemptions under subsection (b) of this section; and

(2) Provide for the refund of the tax imposed under this section to persons who are not eligible for a refund under subsection (c) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 98

(House Bill 933)

AN ACT concerning

Maryland–National Capital Park and Planning Commission Park Police – Workers' Compensation – Lyme Disease Presumption

PG/MC 101–08

FOR the purpose of applying the occupational disease presumption under the workers' compensation law to park police officers employed by the Maryland–National Capital Park and Planning Commission (MNCPPC) who contract Lyme disease under certain circumstances; providing that a certain presumption only applies for a certain period of time under certain circumstances; providing that park police officers who are eligible for benefits under this Act shall receive the benefits in addition to certain retirement benefits, subject to a certain adjustment; providing for the termination of this Act; and generally relating to the occupational disease presumption for Lyme disease under the workers' compensation law.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–503(d) and (e)
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

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

Article – Labor and Employment

9–503.

(d) **(1)** A paid law enforcement employee of the Department of Natural Resources who is a covered employee under § 9–207 of this title **AND A PARK POLICE OFFICER OF THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION** is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

[(1)**] (I)** is suffering from Lyme disease; and

[(2)**] (II)** was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(2) THE PRESUMPTION UNDER THIS SUBSECTION FOR A PARK POLICE OFFICER OF THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION SHALL ONLY APPLY:

(I) DURING THE TIME THAT THE PARK POLICE OFFICER IS ASSIGNED TO A POSITION THAT REGULARLY PLACES THE PARK POLICE OFFICER IN AN OUTDOOR WOODED ENVIRONMENT; AND

(II) FOR 3 YEARS AFTER THE LAST DATE THAT THE PARK POLICE OFFICER WAS ASSIGNED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION TO A POSITION THAT REGULARLY PLACED THE OFFICER IN AN OUTDOOR WOODED ENVIRONMENT.

(e) (1) Except as provided in paragraph (2) of this subsection, any paid firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire Marshal, paid police officer, paid law enforcement employee of the Department of Natural Resources, **A PARK POLICE OFFICER OF THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION,** deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince George's County, or Prince George's County correctional officer who is eligible for benefits under subsection (a), (b), (c), or (d) of this section or the dependents of those individuals shall receive the benefits in addition to any benefits that the individual or the dependents of the individual is entitled to receive under the retirement system in which the individual was a participant at the time of the claim.

(2) The benefits received under this title shall be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the weekly salary that was paid to the paid law enforcement employee of the Department of Natural Resources, **A PARK POLICE OFFICER OF THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION,** firefighter, fire fighting instructor, sworn member of the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's County or Montgomery County correctional officer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 7 years and, at the end of September 30, 2015, 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 8, 2008.

CHAPTER 99

(House Bill 938)

AN ACT concerning

Montgomery County – Deer Hunting on Private Lands – Effective Date

MC 804–08

FOR the purpose of repealing the termination date for removing Montgomery County from the list of counties in which deer hunting on private lands on certain Sundays is prohibited; and generally relating to deer hunting on private lands on Sundays.

BY repealing and reenacting, with amendments,
Chapter 361 of the Acts of the General Assembly of 2006
Section 4

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

Chapter 361 of the Acts of 2006

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2006. **[**It shall remain effective for a period of 2 years and 3 months and, at the end of December 31, 2008, 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 100

(House Bill 941)

AN ACT concerning

Maryland–National Capital Park and Planning Commission – Minority Business Enterprise Utilization Program

PG/MC 110–08

FOR the purpose of extending through a certain date the authority of the Maryland–National Capital Park and Planning Commission to establish and administer a Minority Business Enterprise Utilization Program for the award of contracts for goods, services, and construction under certain circumstances; and generally relating to the Maryland–National Capital Park and Planning Commission and the Minority Business Enterprise Utilization Program.

BY repealing and reenacting, without amendments,
Article 28 – Maryland–National Capital Park and Planning Commission
Section 2–301 through 2–304
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 256 of the Acts of the General Assembly of 1995, as amended by Chapter 487 of the Acts of the General Assembly of 1997, Chapter 40 of the Acts of the General Assembly of 2001, and Chapter 425 of the Acts of the General Assembly of 2003
Section 2

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

Article 28 – Maryland–National Capital Park and Planning Commission

2–301.

In this subtitle "minority" means any group that the Commission finds, after appropriate study, to be socially or economically disadvantaged as a result of discrimination in the public or private sector that has affected the group's utilization and participation in contracting or procurement with the Commission.

2–302.

If the Commission determines that a program is necessary to remedy discrimination against minority business enterprises in contracting or procurement with the Commission, the Commission shall establish a Minority Business Enterprise Utilization Program to facilitate participation of responsible certified minority

business enterprises in contracts awarded by the Commission for goods, services, and construction.

2–303.

(a) The Commission shall adopt regulations for the operation of the Minority Business Enterprise Utilization Program established under this subtitle.

(b) The regulations shall include provisions for:

(1) Acceptance of the certification of minority business enterprises that have been certified by the State certification agency designated under § 14–303 of the State Finance and Procurement Article;

(2) Waiver of all or part of the Program provisions for a specific contract if the Commission determines that:

(i) Minority business enterprises are unavailable; or

(ii) The application of the Program to the contract conflicts with the Commission's overall objectives and responsibilities;

(3) Graduation of a minority business enterprise from the Program if the Commission determines that the minority business enterprise no longer requires the assistance or benefits offered by the Program;

(4) Termination of the Program when the Program is no longer necessary to remedy the effects of past discrimination;

(5) Acceptance of the decisions of any other certification program that, in the judgment of the Commission, assures that certified minority business enterprises are legitimate;

(6) Minority participation in subcontracting as well as direct contracting; and

(7) Application of reasonable preferences to certified minority business enterprises in evaluating competitive bids or proposals.

2–304.

On or before October 31 of each year, the Commission shall issue a report that:

(1) Evaluates the results of the Program through June 30 of that year; and

(2) Makes appropriate recommendations to the Montgomery County and Prince George's County Delegations of the House of Delegates and Senate of Maryland.

Chapter 256 of the Acts of 1995, as amended by Chapter 487 of the Acts of 1997, Chapter 40 of the Acts of 2001, and Chapter 425 of the Acts of 2003

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1995. It shall remain effective for a period of **[**13**]** **18** years and, at the end of September 30, **[**2008**]** **2013**, and with no further action required by the General Assembly, the minority business enterprise utilization program under Article 28, §§ 2–301 through 2–304 of the Annotated Code of Maryland 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, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 101

(House Bill 945)

AN ACT concerning

Montgomery County – Oakmont Special Taxing Area – Competitive Bidding

MC 820–08

FOR the purpose of altering the threshold amount above which the Oakmont Citizens' Committee is required to advertise for bids for the purchase of materials or contract for work; providing for an exception to advertising for competitive bids under certain circumstances; making certain stylistic changes; and generally relating to competitive bidding by the Oakmont Citizens' Committee.

BY repealing and reenacting, with amendments,
The Public Local Laws of Montgomery County
Section 70–5

Article 16 – Public Local Laws of Maryland
(2004 Edition and December 2007 Supplement, as amended)

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

Article 16 – Montgomery County

70–5.

The Oakmont Citizens' Committee **[**shall**]** **MAY** not expend for material or work a sum exceeding **[**two**]** **TEN** thousand dollars **[**($2,000.00)**]** **($10,000)** without having first advertised the specifications **[**therefor**]** and inviting bids for the same, after which the committee may purchase such material **[**or may**],** contract for **[**such**]** **THE** work, or have **[**such**]** **THE** work done by employed labor, or otherwise as it may deem best**[**; and provided further, that the committee may make contracts, and provided further, that no member of the citizens' committee shall**]. PROVIDED FURTHER THAT THE CITIZENS' COMMITTEE MAY, BY UNANIMOUS VOTE, ENTER INTO A CONTRACT EXCEEDING $10,000 WITHOUT SEEKING COMPETITIVE BIDS IF THE CONTRACT IS NECESSARY TO MEET AN URGENT NEED. NO MEMBER OF THE CITIZENS' COMMITTEE MAY** furnish any supplies of any kind or contract in any manner with the citizens' committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 102

(House Bill 946)

AN ACT concerning

Montgomery County – Housing Opportunities Commission – Service Contracts

MC 814–08

FOR the purpose of providing that before the Housing Opportunities Commission of Montgomery County may solicit a certain service contract, the Executive Director of the Montgomery Commission must provide certain certification; prohibiting the Executive Director from making a certain certification unless the Commission has taken certain actions; requiring the Commission to compare certain costs under certain circumstances; requiring the Commission to provide certain notice and maintain a certain plan under certain circumstances; authorizing the certified representative of an adversely affected Commission employee to submit a proposal in response to a certain solicitation; specifying that noncompliance with the provisions of this Act may not invalidate certain contract awards or proposed contract awards; authorizing a certified representative to file a certain appeal on behalf of a Commission employee if the Commission fails to comply with certain provisions of this Act; authorizing an administrative hearing officer to award an employee certain damages under certain circumstances; providing that a certain award of damages shall be the sole and exclusive remedy for certain violations; providing for the application of this Act; providing for a certain remedy; defining certain terms; and generally relating to Housing Opportunities Commission of Montgomery County service contracts.

BY adding to
Article – Housing and Community Development
Section 16–401 through 16–407 to be under the new subtitle "Subtitle 4. Service Contracts"
Annotated Code of Maryland
(2006 Volume and 2007 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

SUBTITLE 4. SERVICE CONTRACTS.

16–401.

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

(B) (1) "ADVERSELY AFFECT" MEANS:

(I) THE ELIMINATION OF MORE THAN TWO EMPLOYEE POSITIONS ASSIGNED TO PERFORM BARGAINING UNIT WORK IF THE POSITIONS ARE AUTHORIZED, FULLY FUNDED, AND EITHER VACANT FOR LESS THAN 90

CALENDAR DAYS OR OCCUPIED AT THE TIME THE MONTGOMERY COMMISSION SOLICITS A SERVICE CONTRACT;

(II) A PERMANENT AND INVOLUNTARY REDUCTION BELOW THE NUMBER OF HOURS FOR REGULAR FULL–TIME EMPLOYMENT FOR MORE THAN FIVE EMPLOYEES CURRENTLY ASSIGNED TO A REGULAR FULL–TIME WORK SCHEDULE TO PERFORM BARGAINING UNIT WORK WHEN THE MONTGOMERY COMMISSION SOLICITS A SERVICE CONTRACT;

(III) A PERMANENT AND INVOLUNTARY REDUCTION IN THE PAY GRADE FOR MORE THAN FIVE EMPLOYEES CURRENTLY ASSIGNED TO A REGULAR FULL–TIME WORK SCHEDULE TO PERFORM BARGAINING UNIT WORK WHEN THE MONTGOMERY COMMISSION SOLICITS A SERVICE CONTRACT; OR

(IV) A PERMANENT AND INVOLUNTARY REDUCTION IN THE BASE PAY OR FRINGE BENEFITS OTHERWISE APPLICABLE TO A JOB CLASSIFICATION COVERING MORE THAN FIVE EMPLOYEES CURRENTLY ASSIGNED ON A FULL–TIME BASIS TO PERFORM BARGAINING UNIT WORK WHEN THE MONTGOMERY COMMISSION SOLICITS A SERVICE CONTRACT.

(2) "ADVERSELY AFFECT" DOES NOT INCLUDE ANY ACTION BY THE MONTGOMERY COMMISSION TAKEN IN ACCORDANCE WITH:

(I) A BONA FIDE DISCIPLINARY PROCEEDING;

(II) A COLLECTIVE BARGAINING AGREEMENT THEN APPLICABLE IN ACCORDANCE WITH § 16–312 OF THIS TITLE; OR

(III) A REALLOCATION OR REASSIGNMENT TO OTHER BARGAINING UNIT WORK OR OTHER DUTIES THAT DOES NOT RESULT IN A CHANGE IN JOB CLASSIFICATION OR GRADE.

(C) "BARGAINING UNIT WORK" MEANS WORK DUTIES ASSIGNED OR ALLOCATED TO ANY POSITION OCCUPIED WITHIN THE PRECEDING 90 CALENDAR DAYS BY AN EMPLOYEE WHO IS REPRESENTED BY A CERTIFIED REPRESENTATIVE.

(D) "CERTIFIED REPRESENTATIVE" MEANS AN EMPLOYEE ORGANIZATION CERTIFIED AS THE COLLECTIVE BARGAINING REPRESENTATIVE OF MONTGOMERY COMMISSION EMPLOYEES IN ACCORDANCE WITH § 16–306 OF THIS TITLE.

(E) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE MONTGOMERY COMMISSION.

(F) "SERVICE CONTRACT" MEANS A PROCUREMENT CONTRACT FOR SERVICES THAT WILL BE PROVIDED TO THE MONTGOMERY COMMISSION.

16–402.

(A) (1) THIS SUBTITLE APPLIES TO A SERVICE CONTRACT THAT:

(I) IS SOLICITED BY THE MONTGOMERY COMMISSION AS A MANAGEMENT PLAN INTENDED TO ADVERSELY AFFECT MONTGOMERY COMMISSION EMPLOYEES REPRESENTED BY A CERTIFIED REPRESENTATIVE; AND

(II) IN THE ESTIMATION OF THE MONTGOMERY COMMISSION PROCUREMENT OFFICER, WILL EXCEED AN ANNUAL COST OF $75,000 AS CALCULATED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE MONTGOMERY COMMISSION SHALL ADJUST THE ANNUAL COST ESTIMATION DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION TO THE NEAREST $100 EVERY 2 YEARS, BEGINNING ON OCTOBER 1, 2008, TO REFLECT ANY AGGREGATE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS, FOR THE WASHINGTON–BALTIMORE METROPOLITAN AREA, OR ANY SUCCESSOR INDEX, FOR THE PREVIOUS 2 YEARS.

(B) THIS SUBTITLE DOES NOT APPLY TO:

(1) SOLICITATION OF A SERVICE CONTRACT AS PART OF A MANAGEMENT PLAN AND NOT FOR A PRESENT OR EVENTUAL PURPOSE OF ADVERSELY AFFECTING MONTGOMERY COMMISSION EMPLOYEES REPRESENTED BY THE CERTIFIED REPRESENTATIVE;

(2) SOLICITATION OF A SERVICE CONTRACT FOR WHICH THE PRIMARY PURPOSE IS TO OBTAIN GOODS OR CONSTRUCTION SERVICES;

(3) SOLICITATION OF A SERVICE CONTRACT THAT THE MONTGOMERY COMMISSION'S PURCHASING OFFICIALS REASONABLY BELIEVE AND EXPRESS IN WRITING MAY NEGATIVELY AFFECT THE POTENTIAL FOR PARTICIPATION BY A MINORITY, FEMALE, OR DISABLED OWNED BUSINESS IN

THE MONTGOMERY COMMISSION'S MINORITY, FEMALE, AND DISABLED PERSONS PROGRAM UNDER PROCUREMENT POLICIES, AS AMENDED;

(4) SOLICITATION OF A SERVICE CONTRACT FOR A SERVICE PROVIDED BY A CONSULTANT;

(5) SOLICITATION OF A SERVICE CONTRACT FOR A PROFESSIONAL SERVICE, UNLESS THE SCOPE OF SERVICE IS PROVIDED BY BARGAINING UNIT EMPLOYEES WHEN THE CONTRACT IS SOLICITED;

(6) SOLICITATION OF A SERVICE CONTRACT THAT THE MONTGOMERY COMMISSION REASONABLY BELIEVES IS:

(I) NECESSARY TO MEET AN EMERGENT OR IMMINENT THREAT TO PUBLIC HEALTH, WELFARE, OR SAFETY;

(II) REQUIRED TO COMPLY WITH THE REQUIREMENTS OF ANY GRANT RELATED TO THE FUNDING OF THAT CONTRACT; OR

(III) RELATED TO THE SETTLEMENT OF AN INSURANCE CLAIM;

(7) SOLICITATION OF A SERVICE CONTRACT THAT IS IN THE BEST INTEREST OF AN EMPLOYEE BASED ON A NEED FOR SPECIALIZED SAFETY EXPERIENCE OR EXPERTISE;

(8) SOLICITATION OF A SERVICE CONTRACT FOR ANY SERVICE PROVIDED BY A PUBLIC ENTITY OR PROVIDED TO THE MONTGOMERY COMMISSION IN ACCORDANCE WITH A PUBLIC–PRIVATE PARTNERSHIP WITH A PRIVATE ENTITY;

(9) SOLICITATION OF A SERVICE CONTRACT TO BE AWARDED ON A NONCOMPETITIVE BASIS IN ACCORDANCE WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS REGARDING THOSE CONTRACTS;

(10) A SERVICE CONTRACT ENTERED INTO PRIOR TO OCTOBER 31, 2008;

(11) THE RENEWAL OR REBIDDING OF A SERVICE CONTRACT ENTERED INTO PRIOR TO OCTOBER 31, 2008, IF THE RENEWAL OR REBIDDING OF THE SERVICE CONTRACT DOES NOT RESULT IN A GREATER ADVERSE EFFECT

ON BARGAINING UNIT EMPLOYEES THAN EXISTED PRIOR TO ITS RENEWAL OR REBIDDING;

(12) SOLICITATION OF A SERVICE CONTRACT FOR A CAPITAL IMPROVEMENT PROJECT, A U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT 236 PROPERTY, A NEWLY–ACQUIRED OR DEVELOPED PROPERTY, UNLESS THAT PROPERTY IS BOTH OWNED AND MANAGED BY THE MONTGOMERY COMMISSION, OR AN ASSET MANAGEMENT PROJECT;

(13) SOLICITATION OF ANY CLASS, TYPE, CATEGORY, OR PARTICULAR SERVICE CONTRACT THAT THE MONTGOMERY COMMISSION REASONABLY BELIEVES SHOULD BE PERFORMED BY AN INDEPENDENT CONTRACTOR TO ELIMINATE A CONFLICT OF INTEREST OTHERWISE APPARENT IF THE SERVICES ARE PERFORMED BY A BARGAINING UNIT EMPLOYEE;

(14) SOLICITATION OF ANY CLASS, TYPE, CATEGORY, OR PARTICULAR SERVICE CONTRACT WHEN THE NEED FOR THE SERVICE OR ACTIVITY IS SUCH THAT THE TIME NECESSARY FOR THE ANALYSIS REQUIRED UNDER § 16–403 OF THIS SUBTITLE WOULD:

(I) RESULT IN DAMAGE TO MONTGOMERY COMMISSION PROPERTY;

(II) RESULT IN INJURY TO INDIVIDUALS; OR

(III) SUBSTANTIALLY HINDER THE OBJECTIVE OF CONSTRUCTING OR MAINTAINING SAFE, SANITARY, AND DECENT PROPERTIES AND FACILITIES; OR

(15) A SERVICE CONTRACT REQUIRED TO COMPLY WITH AN APPLICABLE RULE, REGULATION, OR GUIDELINE ESTABLISHED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(C) THIS SUBTITLE DOES NOT APPLY TO OR LIMIT THE AUTHORITY OF THE MONTGOMERY COMMISSION TO ABOLISH A BARGAINING UNIT POSITION OR CONDUCT A REDUCTION IN FORCE.

16–403.

BEFORE THE MONTGOMERY COMMISSION SOLICITS ANY SERVICE CONTRACT UNDER THIS SUBTITLE, THE EXECUTIVE DIRECTOR SHALL CERTIFY

THAT THE MONTGOMERY COMMISSION HAS COMPLIED WITH §§ 16–404 AND 16–405 OF THIS SUBTITLE.

16–404.

(A) THE EXECUTIVE DIRECTOR MAY NOT CERTIFY THAT THE MONTGOMERY COMMISSION HAS COMPLIED WITH THE REQUIREMENTS OF THIS SUBTITLE UNLESS THE MONTGOMERY COMMISSION:

(1) HAS TAKEN STEPS TO CONSIDER ALTERNATIVES TO THE SERVICE CONTRACT, INCLUDING REORGANIZATION, REEVALUATION OF SERVICE, AND REEVALUATION OF PERFORMANCE;

(2) HAS CONSULTED WITH THE CERTIFIED REPRESENTATIVE OF ANY MONTGOMERY COMMISSION EMPLOYEES WHO WILL BE ADVERSELY AFFECTED IF THE MONTGOMERY COMMISSION ENTERS INTO THE SERVICE CONTRACT; AND

(3) HAS DEMONSTRATED, BASED ON A COST COMPARISON ANALYSIS UTILIZING GOOD FAITH ESTIMATES, THAT THE MONTGOMERY COMMISSION WILL SAVE, BY ENTERING INTO A SERVICE CONTRACT, AT LEAST AN AMOUNT EQUAL TO THE LESSER OF $200,000 OR 20% OF THE ESTIMATED NET PRESENT VALUE OF THE COST OF THE SERVICE CONTRACT.

(B) THE MONTGOMERY COMMISSION SHALL ESTIMATE AND COMPARE AT LEAST THE FOLLOWING IN THE COST COMPARISON ANALYSIS:

(1) DIRECT COSTS, INCLUDING FRINGE BENEFITS AND THE ASSUMPTION THAT THE CONTRACTOR WILL PAY EMPLOYEES WHO PERFORM WORK UNDER THE SERVICE CONTRACT, AT A MINIMUM, THE COUNTY LIVING WAGE RATE FOR MONTGOMERY COUNTY;

(2) INDIRECT OVERHEAD COSTS PROPERLY ALLOCABLE TO THE BARGAINING UNIT WORK OR SERVICE CONTRACT ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

(3) ANY COSTS ASSOCIATED WITH UNEMPLOYMENT COMPENSATION OR OUTPLACEMENT ASSISTANCE FOR DISPLACED EMPLOYEES.

16–405.

(A) THE MONTGOMERY COMMISSION SHALL PROVIDE NOT LESS THAN 60 DAYS ADVANCE NOTICE AND MAINTAIN AT ALL TIMES A FORMAL PLAN OF OUTPLACEMENT ASSISTANCE FOR EACH MONTGOMERY COMMISSION EMPLOYEE WHO IS REPRESENTED BY A CERTIFIED REPRESENTATIVE AND WILL BE ADVERSELY AFFECTED BY A SERVICE CONTRACT THAT IS SUBJECT TO THIS SUBTITLE.

(B) THE PLAN DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) EFFORTS TO TRANSFER OR PLACE EACH ADVERSELY AFFECTED MONTGOMERY COMMISSION EMPLOYEE IN A VACANT MONTGOMERY COMMISSION POSITION THAT THE EMPLOYEE IS QUALIFIED TO PERFORM;

(2) A REQUIREMENT IN THE SERVICE CONTRACT THAT THE CONTRACTOR SHALL:

(I) NOTIFY THE MONTGOMERY COMMISSION OF ANY VACANT POSITION FOR WHICH DISPLACED MONTGOMERY COMMISSION EMPLOYEES MAY APPLY; AND

(II) CONSIDER AND GIVE PREFERENCE TO HIRING DISPLACED MONTGOMERY COMMISSION EMPLOYEES; AND

(3) WRITTEN NOTIFICATION OF THE ANTICIPATED ADVERSE EFFECT ON ONE OR MORE JOB CLASSIFICATIONS TO THE CERTIFIED REPRESENTATIVE AT LEAST 90 CALENDAR DAYS BEFORE THE ANTICIPATED ADVERSE EFFECT WILL OCCUR.

16–406.

THE CERTIFIED REPRESENTATIVE OF AN ADVERSELY AFFECTED MONTGOMERY COMMISSION EMPLOYEE MAY SUBMIT A PROPOSAL FOR EXISTING BARGAINING UNIT EMPLOYEES TO CONTINUE PERFORMING THE SERVICES DESCRIBED IN THE SOLICITATION WHILE ACHIEVING THE TARGETED SAVINGS.

16–407.

(A) (1) IF THE MONTGOMERY COMMISSION FAILS TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE AND A MONTGOMERY COMMISSION EMPLOYEE IS ADVERSELY AFFECTED, THE CERTIFIED REPRESENTATIVE OF THE

EMPLOYEE MAY FILE AN APPEAL ON THE RECORD ON BEHALF OF THE EMPLOYEE BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS IN ACCORDANCE WITH THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT, TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) (I) IF THE HEARING OFFICER FINDS THAT THE MONTGOMERY COMMISSION WAS ARBITRARY AND CAPRICIOUS IN SOLICITING OR ENTERING INTO A SERVICE CONTRACT THAT IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AND THE MONTGOMERY COMMISSION EMPLOYEE HAS BEEN ADVERSELY AFFECTED, THE HEARING OFFICER MAY AWARD THE EMPLOYEE ACTUAL DAMAGES FOR BACK PAY AND FRONT PAY FOR A COMBINED PERIOD OF UP TO 2 YEARS BEGINNING ON THE DATE THE EMPLOYEE WAS FIRST ADVERSELY AFFECTED, PROVIDED THAT THE EMPLOYEE IS OBLIGATED TO MITIGATE THE ACTUAL DAMAGES.

(II) THE AWARD OF ACTUAL DAMAGES AUTHORIZED UNDER THIS PARAGRAPH SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR A VIOLATION OF THIS SUBTITLE THAT IS AVAILABLE TO THE EMPLOYEE, AND NO LIABILITY SHALL ACCRUE FOR PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, OR DAMAGES FOR EMOTIONAL DISTRESS OR PAIN AND SUFFERING.

(B) NONCOMPLIANCE WITH THIS SECTION MAY NOT INVALIDATE A CONTRACT AWARD OR PROPOSED CONTRACT AWARD THAT THE MONTGOMERY COMMISSION HAS OTHERWISE VALIDLY AWARDED OR ISSUED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 103

(House Bill 963)

AN ACT concerning

Carroll County – Board of Education – Compensation

FOR the purpose of altering the compensation of the Chairman and the other members of the Board of Education of Carroll County; providing that this Act does not apply to the salary or compensation of the incumbent Chairman and other members of the Board of Education of Carroll County; and generally relating to the Board of Education of Carroll County.

BY repealing and reenacting, with amendments,
Article – Education
Section 3–403
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Education

3–403.

(a) The Chairman of the County Board is entitled to receive **[**$6,000**]** **$7,500** annually as compensation and the other members are entitled to receive **[**$5,000**]** **$6,500** each annually as compensation.

(b) The compensation of the Chairman and the members described in subsection (a) of this section shall be paid in four equal quarterly installments.

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 Chairman of the Board of Education of Carroll County or the members of the Board of Education of Carroll County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Chairman of the Board of Education of Carroll County and the members of the Board of Education of Carroll County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 104

(House Bill 972)

AN ACT concerning

Forest Conservation – Reporting and Enforcement

FOR the purpose of requiring certain local authorities to report certain enforcement activity to the Department of Natural Resources within a certain period of time; requiring the Department to include certain information regarding certain enforcement activity in certain annual reports; and generally relating to enforcement of State and local forest conservation laws.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–1612 and 5–1613
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Natural Resources

5–1612.

(a) (1) The enforcement provisions in this section and § 5–1608 of this subtitle are in lieu of any other provision in this title.

(2) In addition to the enforcement authority granted the Department, the enforcement provisions of this section may be exercised by any local authority that has adopted a forest conservation program, in addition to any enforcement provisions available to the local authority.

(b) The Department or a local authority may revoke an approved forest conservation plan for cause, including violation of conditions of the plan, obtaining a plan approval by misrepresentation, failing to disclose a relevant or material fact, or change in conditions. The Department or a local authority shall notify the violator in writing and provide an opportunity for a hearing.

(c) The Department or a local authority may issue a stop work order against any person who violates any provision of this subtitle or any regulation, order, approved plan, or management agreement.

(d) (1) A person who violates any provision of this subtitle or any regulation, order, plan, or management agreement under this subtitle is liable for a penalty not exceeding $1,000 which may be recovered in a civil action brought by the Department or a local authority. Each day a violation continues is a separate violation under this subtitle.

(2) The court may issue an injunction requiring the person to cease the violation and take corrective action to restore or reforest an area.

(E) A LOCAL AUTHORITY ~~ENGAGING IN~~ CONDUCTING ENFORCEMENT ACTIVITY IN ACCORDANCE WITH ~~THE PROVISIONS OF~~ THIS SECTION OR § 5–1608(C) OF THIS SUBTITLE SHALL GIVE NOTICE TO THE DEPARTMENT WITHIN 15 DAYS AFTER THE COMMENCEMENT OF THE ENFORCEMENT ACTIVITY.

5–1613.

On or before July 1 of each year, the Department shall submit, subject to § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee a statewide report, compiled from local authorities' reports to the Department, on:

(1) The number, location, and type of projects subject to the provisions of this subtitle;

(2) The amount and location of acres cleared, conserved, and planted, including any areas which utilize forest mitigation bank credits **~~AND~~ OR AREAS ~~OF THE~~ LOCATED IN THE 100 YEAR FLOODPLAIN**, in connection with a development project;

(3) The amount of reforestation and afforestation fees and noncompliance penalties collected and expended;

(4) The costs of implementing the forest conservation program; **[**and**]**

(5) The size, location, and protection of any local forest mitigation banks which are created under a local or State program**;**

(6) THE NUMBER, LOCATION, AND TYPE OF VIOLATIONS AND TYPE OF ENFORCEMENT ~~UNDERTAKEN~~ ACTIVITY CONDUCTED IN ACCORDANCE WITH ~~THE PROVISIONS OF~~ THIS SUBTITLE; AND

(7) TO THE EXTENT PRACTICABLE, THE SIZE AND LOCATION OF ALL CONSERVED AND PLANTED FOREST AREAS, SUBMITTED IN AN ELECTRONIC GEOGRAPHIC INFORMATION SYSTEM OR COMPUTER AIDED DESIGN FORMAT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 105

(House Bill 976)

AN ACT concerning

Maryland Agricultural Land Preservation Program – Lot Releases

FOR the purpose of requiring a certain statement in certain lot releases; altering the size of lots that may be released from easement restrictions by the Maryland Agricultural Land Preservation Foundation under certain circumstances; providing for the application of this Act; and generally relating to releases from lot easement restrictions by the Maryland Agricultural Land Preservation Foundation.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–513(b)(2)(vi) and (6)(i)
Annotated Code of Maryland
(2007 Replacement Volume)

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

Article – Agriculture

2–513.

(b) (2) Except as provided in paragraphs (3) and (6) 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:

(vi) 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; **[**and**]**

2. A STATEMENT BY THE LANDOWNER OR CHILD OF THE LANDOWNER THAT ACKNOWLEDGES THAT ~~ADJACENT~~:

A. ADJACENT FARMLAND THAT IS SUBJECT TO AN AGRICULTURAL LAND PRESERVATION EASEMENT MAY BE USED FOR ANY AGRICULTURAL PURPOSE ~~THAT DOES NOT ENDANGER HUMAN HEALTH OR SAFETY, OR VIOLATE FEDERAL, STATE, OR LOCAL LAW~~ 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; AND

C. ACKNOWLEDGMENTS MADE UNDER ITEMS A AND B OF THIS ITEM ARE BINDING TO ANY SUCCESSOR OR ASSIGN OF THE LANDOWNER OR CHILD; AND

[2.**]** **3.** A statement that the owner's or child's lot may not be transferred for 5 years from the date of the final release, except on:

A. Approval by the Foundation; or

B. 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.

(6) (i) The restrictions of paragraphs (2) and (5) of this subsection concerning maximum lot sizes are altered so that the maximum lot size is **[**2 acres if**]**:

1. **[**Regulations**]** **AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT IN ACCORDANCE WITH REGULATIONS**

adopted by the Department of the Environment **[**require a minimum lot size for a dwelling house of not less than 2 acres**]** in areas where there is less than 4 feet of unsaturated and unconsolidated soil material below the bottom of an on–site sewage disposal system or in areas located within 2,500 feet of the normal water level of an existing or proposed water supply reservoir; or

2. **[**Regulations**]** **UP TO A MAXIMUM OF 2 ACRES WHEN REGULATIONS** adopted by the jurisdiction in which the land is situated require that a lot for a dwelling house be larger than 1 acre.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to any lot released by the Maryland Agricultural Land Preservation Foundation on or after the effective date of this Act, under the terms of any agricultural land preservation easement, even if the easement was granted to the Foundation before October 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 106

(House Bill 977)

AN ACT concerning

Controlled Hazardous Substances – Discharge or Release – Reporting Requirements

FOR the purpose of requiring ~~a person who discharges or releases, participates in the discharge or release, or has~~ certain persons that possess certain evidence of a ~~discharge or~~ release of a hazardous substance under certain circumstances to report the ~~incident~~ finding immediately to the Department of the Environment; requiring the Department to consider certain factors in determining certain thresholds for reporting a release of a hazardous substance; ~~authorizing~~ requiring the Department to adopt certain regulations on or before a certain date; and generally relating to controlled hazardous substances.

BY repealing and reenacting, with amendments,
Article – Environment
Section 7–222

Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

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

Article – Environment

7–222.

~~**(A) NOTWITHSTANDING ANY PROVISION OF THIS SUBTITLE OR ANY FEDERAL REPORTING REQUIREMENT, ANY PERSON WHO DISCHARGES OR RELEASES, ACTIVELY OR PASSIVELY PARTICIPATES IN THE DISCHARGE OR RELEASE, OR POSSESSES EVIDENCE OF A DISCHARGE OR RELEASE OF A HAZARDOUS SUBSTANCE SHALL REPORT THE INCIDENT OR FINDING IMMEDIATELY TO THE DEPARTMENT.**~~

~~**[**~~(a)~~**]**~~ ~~**(B)**~~ If any hazardous substance is released or there is a substantial threat of a release into the environment, unless the Secretary determines that a removal and remedial action will be done properly and in a timely manner by the owner or operator of the facility from which the release or threat of release emanates, or by any other responsible party, the Secretary may:

(1) Enter any site or facility to carry out the provisions of this section; and

(2) (i) Act consistent with the State Hazardous Substance Response Plan to remove or arrange for the removal of and provide for remedial action relating to the hazardous substance at any time, including its removal from any contaminated natural resources;

(ii) When the Secretary determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment, take any other response measure consistent with the State Hazardous Substance Response Plan necessary to protect the public health or welfare or the environment; or

(iii) In addition to any other action authorized under this subtitle, when the Secretary determines that there may be an imminent and substantial endangerment to the public health or welfare or to the environment, issue orders to or seek injunctive relief against responsible persons as may be necessary to protect the public health and welfare or the environment.

~~[~~(b)~~]~~ ~~(C)~~ The Department in any removal or remedial action under this subtitle may not duplicate removal or remedial actions taken under the federal act.

~~[~~(c)~~]~~ ~~(D)~~ If entry to enable the Secretary to carry out the provisions of this section is denied, the Secretary may:

(1) Obtain a search warrant pursuant to § 7–256.1 of this subtitle; or

(2) Obtain an injunction to enter.

~~(E) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.~~

(D) (1) ON OR AFTER OCTOBER 1, 2009, A RESPONSIBLE PERSON THAT POSSESSES A SAMPLE RESULT OR OTHER ENVIRONMENTAL ASSESSMENT THAT INDICATES THE RELEASE OF A HAZARDOUS SUBSTANCE INTO THE ENVIRONMENT, AT OR ABOVE A THRESHOLD ESTABLISHED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, SHALL REPORT THE FINDING IMMEDIATELY TO THE DEPARTMENT.

(2) IN DETERMINING A REPORTABLE THRESHOLD OF A RELEASE OF A HAZARDOUS SUBSTANCE, THE DEPARTMENT SHALL CONSIDER:

(I) THE QUANTITY OF A HAZARDOUS SUBSTANCE;

(II) THE ASSOCIATED RISK FACTORS OF A HAZARDOUS SUBSTANCE; AND

(III) ANY OTHER FACTOR DETERMINED NECESSARY BY THE DEPARTMENT.

(3) ON OR BEFORE JUNE 30, 2009, THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 107

(House Bill 1005)

AN ACT concerning

Somerset County, Wicomico County, and Worcester County – School Buses – Length of Operation – Sunset Repeal

FOR the purpose of repealing the termination date for a provision of law that authorizes conventional school buses that meet certain criteria to be operated in Somerset, Wicomico, and Worcester counties for a certain length of time.

BY repealing and reenacting, with amendments,
Chapter 420 of the Acts of the General Assembly of 2003, as amended by Chapter 576 of the Acts of the General Assembly of 2006
Section 2

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

Chapter 420 of the Acts of 2003, as amended by Chapter 576 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2003. **[**It shall remain effective for a period of 8 years and, at the end of June 30, 2011, 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 July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 108

(House Bill 1011)

AN ACT concerning

Prince George's County School Facilities Surcharge – Exemption

PG 414–08

FOR the purpose of authorizing an exemption from the school facilities surcharge in Prince George's County for construction of a single–family dwelling unit that is to replace on the same lot a previously existing single–family dwelling unit destroyed by certain causes under certain circumstances; and generally relating to an exemption from the school facilities surcharge in Prince George's County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Prince George's County
Section 10–192.01
Article 17 – Public Local Laws of Maryland
(2003 Edition and 2005 Supplement, as amended)
(As enacted by Chapter 431 of the Acts of the General Assembly of 2003 and Chapter 166 of the Acts of the General Assembly of 2007)

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

Article 17 – Prince George's County

10–192.01.

(a) (1) The County Council, by ordinance, shall impose a school facilities surcharge on new residential construction for which a building permit is issued on or after July 1, 2003.

(2) **[**(i)**] (A)** Except as provided under subparagraph **[**(ii)**](B)** of this paragraph, the County Council may impose a school facilities surcharge on new residential construction for which a building permit is issued on or after July 1, 2003, by a municipal corporation in Prince George's County with zoning authority and the authority to issue building permits.

[(ii)**] (B)** The County Council may not impose a school facilities surcharge on new residential construction for which a building permit is issued by a municipal corporation if Prince George's County has collected a surcharge on issuance of a County permit for the same new residential construction.

(b) (1) **[**(i)**] (A)** For Fiscal Year 2004, a school facilities surcharge imposed on a single–family detached dwelling, townhouse, or dwelling unit for any other building containing more than a single dwelling unit shall be in the amount of:

[1.**] (I)** Except as provided in items **[**2**] (II)** and **[**3**] (III)** of this subparagraph, **TWELVE THOUSAND DOLLARS (**$12,000**)**;

[2.**] (II)** **SEVEN THOUSAND DOLLARS (**$7,000**)** if the building is located between Interstate Highway 495 and the District of Columbia; and

[3.**] (III)** **SEVEN THOUSAND DOLLARS (**$7,000**)** if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority.

[(ii)**] (B)** For Fiscal Year 2005 and each succeeding fiscal year, the facilities surcharge established in subparagraph **[**(i)**] (A)** of this paragraph shall be adjusted for inflation in accordance with the Consumer Price Index for all urban consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the amount is being calculated.

(2) The school facilities surcharge does not apply to a mixed retirement development or elderly housing.

(3) The school facilities surcharge does not apply to a single–family detached dwelling that is to be built or subcontracted by an individual owner in a minor subdivision and that is intended to be used as the owner's personal residence.

(4) **[**(i)**] (A)** The school facilities surcharge does not apply to multi–family housing designated as student housing that is located in:

[1.**] (I)** The area bounded by Maryland Route 193 to the west and north, U.S. Route 1 to the east, and the southern boundary of the City of College Park to the south;

[2.**] (II)** The area bounded by U.S. Route 1 to the west, Berwyn House Road to the north, Rhode Island Avenue to the east, and Lakeland Road to the south;

[3.**] (III)** The area bounded by U.S. Route 1 to the west, Paint Branch Parkway to the north and east, Rhode Island Avenue to the east, and College Avenue to the south;

[4.**] (IV)** The area bounded by University Boulevard to the north, Adelphi Road to the east, Stanford Street to the south, and University Hills Park to the west;

[5.**] (V)** The area bounded by the eastern boundary of Paint Branch Stream Valley Park to the west, Park Road and a line extending from the western end of Park Road directly west to Paint Branch Stream Valley Park to the north, U.S. Route 1 to the east, and Erie Street and a line extending from the western end of Erie Street directly west to Paint Branch Stream Valley Park to the south;

[6.**] (VI)** The area bounded by Autoville Drive and a line extending from the southern end of Autoville Drive directly south to Maryland Route 193 to the west, Erie Street to the north, U.S. Route 1 to the east, and Maryland Route 193 to the south; or

[7.**] (VII)** The area bounded by U.S. Route 1 to the west, Maryland Route 193 to the north, 48th Avenue to the east, and Greenbelt Road to the south.

[(ii)**] (B)** Subject to the approval of the County Council and the municipality where the multi–family housing is located, the school facilities surcharge does not apply to multi–family housing designated as student housing for any areas not listed under subparagraph **[**(i)**] (A)** of this paragraph in the City of College Park, the City of Hyattsville, and the Town of Riverdale Park.

[(iii)**] (C)** If the housing is converted from student housing to multi–family housing for the general population, the owner of the property shall pay, at the time of the conversion, the school facilities surcharge in accordance with the laws at the time of the conversion.

(5) THE SCHOOL FACILITIES SURCHARGE DOES NOT APPLY TO A SINGLE–FAMILY DWELLING UNIT THAT IS TO BE BUILT OR SUBCONTRACTED BY AN INDIVIDUAL OWNER TO REPLACE ON THE SAME LOT A PREVIOUSLY EXISTING SINGLE–FAMILY DWELLING UNIT THAT WAS DESTROYED BY FIRE, EXPLOSION, OR A NATURAL DISASTER IF THE SINGLE–FAMILY DWELLING UNIT IS ~~SIMILAR~~:

(I) SIMILAR TO THE PREVIOUSLY EXISTING SINGLE–FAMILY DWELLING UNIT; AND

(II) OWNED AND OCCUPIED BY THE SAME INDIVIDUAL WHO OWNED AND OCCUPIED THE PREVIOUSLY EXISTING SINGLE–FAMILY DWELLING UNIT.

(c) The school facilities surcharge shall be paid by the seller at the time a building permit is issued for the dwelling unit. The school facilities surcharge may not be construed to be a settlement cost.

(d) Payment of the school facilities surcharge does not eliminate any authority to apply any test concerning the adequacy of school facilities under the County's adequate public facility ordinance.

(e) Revenue collected under the school facilities surcharge shall be deposited in a separate account and may only be used to pay for:

(1) Additional or expanded public school facilities such as renovations to existing school buildings or other systemic changes; or

(2) Debt service on bonds issued for additional or expanded public school facilities or new school construction.

(f) Revenue collected under the school facilities surcharge is intended to supplement funding for public school facilities and may not supplant other County or State funding for school construction.

(g) The County Executive of Prince George's County shall prepare an annual report on the school facilities surcharge on or before August 31 of each year for the County Council of Prince George's County, the Prince George's County Senate Delegation, and the Prince George's County House Delegation, to include:

(1) A detailed description of how fees were expended; and

(2) The amount of fees collected.

(h) This Section does not apply to any property located in an infrastructure finance district approved before January 1, 2000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 109

(House Bill 1015)

AN ACT concerning

Workers' Compensation – Prince George's County Correctional Officers

PG 328–08

FOR the purpose of providing for enhanced workers' compensation benefits for certain Prince George's County correctional officers for a compensable permanent partial disability of less than a certain number of weeks; providing for the application of this Act; and generally relating to workers' compensation benefits for Prince George's County correctional officers.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–628
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–629
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

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

Article – Labor and Employment

9–628.

(a) In this section, "public safety employee" means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life support worker who is a covered employee under § 9–234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(3) a police officer employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) the Maryland–National Capital Park and Planning Commission;

(4) a Prince George's County deputy sheriff **OR CORRECTIONAL OFFICER**;

(5) a Montgomery County deputy sheriff or correctional officer; or

(6) a Howard County deputy sheriff, but only when the deputy sheriff is performing law enforcement duties expressly requested, defined, and authorized in accordance with a written memorandum of understanding executed between the Howard County Sheriff and other law enforcement agencies.

(b) Except as provided in subsections (f) and (g) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $80.

(c) Except as provided in subsections (f) and (g) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $82.50.

(d) Except as provided in subsections (f) and (g) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $94.20.

(e) Except as provided in subsections (f) and (g) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $114.

(f) If a covered employee is awarded compensation for less than 75 weeks for a disability listed in § 9–627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

(g) If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

9–629.

If a covered employee is awarded compensation for a period equal to or greater than 75 weeks but less than 250 weeks, the employer or its insurer shall pay the covered employee weekly compensation that equals two–thirds of the average weekly wage of the covered employee but does not exceed one–third of the State average weekly wage.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claims arising from events occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 110

(House Bill 1021)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Theme Park License

PG 319–08

FOR the purpose of establishing a Class B (TP) beer, wine and liquor theme park license in Prince George's County; specifying an annual fee; providing that the license privileges be exercised only at a theme park in Mitchellville; specifying that the license entitles the holder to sell beer, wine, and liquor by the drink in certain locations for consumption on the premises only; specifying that the license is of a certain type; requiring the applicant for the license to file certain items with the Board of License Commissioners; requiring the Board to adopt certain regulations; making a certain exception to a certain prohibition against issuing alcoholic beverages licenses in Prince George's County; defining a certain term; and generally relating to alcoholic beverages licenses in Prince George's County.

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(r)(16)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–217(a) and (e)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–217(e)(5)
Annotated Code of Maryland

(2005 Replacement Volume and 2007 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.

(r) **(16) (I) IN THIS PARAGRAPH, "THEME PARK" MEANS AN ENTERTAINMENT COMPLEX THAT INCLUDES ROLLER COASTERS AND OTHER RIDES, SHOWS, A WATER PARK, RESTAURANTS, AND SHOPS.**

(II) THERE IS A CLASS B (TP) BEER, WINE AND LIQUOR THEME PARK LICENSE.

(III) THE ANNUAL LICENSE FEE IS $3,900.

(IV) THE LICENSE PRIVILEGES MAY BE EXERCISED ONLY AT A THEME PARK IN MITCHELLVILLE.

(V) THE LICENSE ENTITLES THE HOLDER TO SELL BEER, WINE, AND LIQUOR BY THE DRINK WITHIN THE THEME PARK, FROM ONE OR MORE OUTLETS, FOR CONSUMPTION ON THE LICENSED PREMISES ONLY.

(VI) THE LICENSE IS A 7–DAY LICENSE.

(VII) TO RECEIVE THE LICENSE, THE APPLICANT SHALL FILE:

1. AN APPLICATION ON A FORM THAT THE BOARD OF LICENSE COMMISSIONERS PROVIDES; AND

2. THE POLICIES OF THE THEME PARK FOR THE SPONSORSHIP OF SPECIAL EVENTS HELD WHEN THE THEME PARK IS CLOSED TO THE PUBLIC AND ALCOHOLIC BEVERAGES ARE SOLD.

(VIII) THE BOARD SHALL ADOPT REGULATIONS RELATING TO THE DISPENSING OF ALCOHOLIC BEVERAGES AND THE DAYS AND HOURS OF SALE.

9–217.

(a) This section applies only in Prince George's County.

(e) (1) A license may not be granted to sell alcoholic beverages in any building located within 1,000 feet of a school building, or within 500 feet of a church. The 1,000 feet, or the 500 feet, as the case may be, is to be measured from the front door or main entrance, whichever is nearest the street abutting the premises, of the proposed licensed establishment along the nearest usual pedestrian route to the door closest to the licensed premises which is used as an entrance or exit to any school, or to the main entrance of the church building.

(5) This subsection does not apply to any license issued under § 6–201(r)(2), (5), **[**or**]** (15)**, OR (16)** or § 7–101 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 111

(House Bill 1064)

AN ACT concerning

Convention Center – Bond Authority

FOR the purpose of curing a previous Act of the General Assembly, erroneously enacted as part of the Maryland Consolidated Capital Bond Loan of 2007, by repealing and reenacting without amendments a provision of law to provide for an increase in the total principal amount of bonds that may be issued by the local governing body of a code county; and generally relating to the bonding authority of code counties.

BY repealing and reenacting, without amendments,
Article 25B – Home Rule for Code Counties
Section 13H(a) and (b)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 25B – Home Rule for Code Counties

13H.

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

(2) "Food", "premises", and "substantial grocery or market business" have the meanings stated in § 11–206 of the Tax – General Article.

(3) "Beverage" does not include an alcoholic beverage, as defined in § 5–101 of the Tax – General Article, if the alcoholic beverage is sold for consumption off the premises.

(4) "Convention center facility" means a convention center of at least 150,000 net square feet, that is used for the holding of conventions, trade shows, meetings, displays, entertainment shows, or similar events but does not have lodging facilities.

(5) "Resort area" means any portion or portions of a county, as specified by the county commissioners of the county, that:

(i) By reason of natural, scenic, or man–made attractions or development, has or have an unusual influx of visitors, sojourners, and temporary residents; and

(ii) By reason of the influx requires municipal services in unusual number or magnitude.

(6) "Taxable price" has the meaning stated in § 11–101 of the Tax – General Article.

(b) (1) Except as otherwise provided in this section, the county commissioners of a code county, by public local law, may impose a tax on the sale of food and beverages in a resort area in the county for the sole purpose of providing revenues to pay the principal and interest on bonds issued relating to the construction, reconstruction, repair, renovation, or equipping of a convention center facility in the resort area. The total principal amount of the bonds issued by the local governing body for this purpose may not exceed $20,000,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 112

(House Bill 1079)

AN ACT concerning

Consumer Protection – Halal Food Products

FOR the purpose of requiring certain persons, that represent to the public that any unpackaged food that is sold or served is halal, to prominently and conspicuously display on the premises a certain disclosure statement; requiring the Division of Consumer Protection of the Office of the Attorney General to develop and make available a form for certain disclosure statements; requiring the disclosure statement to contain certain information; establishing certain duties of a person that displays a certain disclosure statement; prohibiting the sale, offer for sale, or display for sale of certain food unless certain signs with certain words are displayed; prohibiting a person from falsely representing certain food as halal; establishing a certain presumption; prohibiting certain acts relating to the marking, stamping, tagging, branding, labeling, or other means of identifying halal food products; providing that a violation of this Act is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; and generally relating to halal food products.

BY adding to
Article – Commercial Law
Section 14–3601 through 14–3604 to be under the new subtitle "Subtitle 36. Halal Food Products"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Commercial Law

SUBTITLE 36. HALAL FOOD PRODUCTS.

14–3601.

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

(B) "ADVERTISEMENT" HAS THE MEANING STATED IN § 13–101 OF THIS ARTICLE.

(C) "DISCLOSURE STATEMENT" MEANS THE FORM PROVIDED BY THE ATTORNEY GENERAL FOR THE PURPOSE OF DISCLOSING TO CONSUMERS PRACTICES RELATING TO THE PREPARATION, HANDLING, AND SALE OF ANY UNPACKAGED FOOD REPRESENTED TO BE HALAL.

(D) "DIVISION" MEANS THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL.

(E) (1) "FOOD" OR "FOOD PRODUCT" MEANS ANY FOOD, FOOD PRODUCT, OR FOOD PREPARATION, WHETHER:

(I) RAW, SOLID, OR LIQUID; OR

(II) PREPARED FOR HUMAN CONSUMPTION.

(2) "FOOD" OR "FOOD PRODUCT" INCLUDES:

(I) ANY MEAT, MEAT PRODUCT, OR MEAT PREPARATION; AND

(II) ANY POULTRY OR POULTRY PRODUCT.

(F) "HALAL" MEANS PREPARED OR PROCESSED IN ACCORDANCE WITH ISLAMIC RELIGIOUS REQUIREMENTS.

(G) "MEAT" INCLUDES ANY MEAT PRODUCT OR MEAT PREPARATION.

(H) "PERSON" INCLUDES AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(I) (1) "REPRESENTS TO THE PUBLIC" MEANS ANY DIRECT OR INDIRECT STATEMENT, ORAL OR WRITTEN, AND ANY LETTER, WORD, SIGN, EMBLEM, INSIGNIA, OR MARK WHICH COULD REASONABLY LEAD A CONSUMER TO BELIEVE THAT A REPRESENTATION IS BEING MADE THAT THE FINAL FOOD PRODUCT SOLD TO THE CONSUMER IS HALAL.

(2) "REPRESENTS TO THE PUBLIC" INCLUDES AN ADVERTISEMENT.

14–3602.

(A) (1) A PERSON THAT REPRESENTS TO THE PUBLIC THAT ANY UNPACKAGED FOOD THAT IS SOLD OR SERVED IS HALAL SHALL PROMINENTLY AND CONSPICUOUSLY DISPLAY ON THE PREMISES ON WHICH THE FOOD IS SOLD OR SERVED A COMPLETE DISCLOSURE STATEMENT.

(2) THE DIVISION SHALL:

(I) DEVELOP A FORM FOR DISCLOSURE STATEMENTS; AND

(II) MAKE THE FORM AVAILABLE TO ANY PERSON ON REQUEST.

(3) THE DISCLOSURE STATEMENT SHALL:

(I) BE UNDERSTANDABLE AND WRITTEN IN SIMPLE AND READABLE PLAIN LANGUAGE;

(II) DISCLOSE TO THE PUBLIC THE BASIS FOR A REPRESENTATION THAT ANY UNPACKAGED FOOD SOLD OR SERVED IS HALAL, INCLUDING A SPECIFICATION OF PRACTICES RELATING TO THE PREPARATION, HANDLING, AND SALE OF THE FOOD; AND

(III) CONTAIN ANY ADDITIONAL INFORMATION OR CONFORM TO ANY ADDITIONAL REQUIREMENTS THAT THE DIVISION CONSIDERS REASONABLE AND NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

(4) A PERSON THAT DISPLAYS A DISCLOSURE STATEMENT IN ACCORDANCE WITH THIS SECTION SHALL:

(I) RETAIN A COPY OF THE DISCLOSURE STATEMENT, AND ANY AMENDMENT TO THE DISCLOSURE STATEMENT, FOR AT LEAST 3 YEARS FROM THE DATE ON WHICH THE PERSON NO LONGER REPRESENTS TO THE PUBLIC THAT ANY UNPACKAGED FOOD THAT IS SOLD OR SERVED ON THE PREMISES IS HALAL; AND

(II) PROVIDE A COPY OF THE DISCLOSURE STATEMENT TO THE DIVISION WITHIN 2 BUSINESS DAYS AFTER THE PERSON'S RECEIPT OF A REQUEST FROM THE DIVISION FOR A COPY OF THE DISCLOSURE STATEMENT.

(5) A PERSON SHALL CONFORM ITS PRACTICES WITH RESPECT TO THE SALE OR SERVING OF UNPACKAGED FOOD THAT IS REPRESENTED TO THE PUBLIC AS HALAL TO THE STANDARD DISPLAYED IN THE DISCLOSURE STATEMENT.

(B) A PERSON MAY NOT SELL OR OFFER FOR SALE ANY FOOD REPRESENTED TO THE PUBLIC AS HALAL, WHETHER FOR CONSUMPTION IN THE PERSON'S PLACE OF BUSINESS OR ELSEWHERE, IF, IN THE SAME PLACE OF BUSINESS, THE PERSON ALSO OFFERS FOR SALE ANY FOOD, NOT REPRESENTED TO THE PUBLIC AS HALAL, UNLESS THE PERSON INCLUDES ON EACH WINDOW SIGN AND DISPLAY ADVERTISEMENT IN BLOCK LETTERS AT LEAST 4 INCHES HIGH THE WORDS "HALAL AND NONHALAL FOOD SOLD HERE" OR, AS TO THE SALE OF MEAT ALONE, "HALAL AND NONHALAL MEAT SOLD HERE".

(C) A PERSON MAY NOT SELL OR OFFER FOR SALE ANY FOOD PRODUCT, WHETHER FOR CONSUMPTION IN THE PERSON'S PLACE OF BUSINESS OR ELSEWHERE, AND FALSELY REPRESENT IT TO THE PUBLIC AS HALAL.

(D) A PERSON MAY NOT FALSELY REPRESENT, WITH INTENT TO DEFRAUD, ANY FOOD PRODUCT OR THE CONTENTS OF ANY PACKAGE OR CONTAINER TO BE HALAL, BY HAVING OR PERMITTING TO BE INSCRIBED ON THE PACKAGE OR CONTAINER THE WORD "HALAL" IN ENGLISH.

(E) A PERSON MAY NOT DISPLAY FOR SALE, WITH INTENT TO DEFRAUD, ANY FOOD REPRESENTED TO THE PUBLIC AS HALAL, WHETHER FOR CONSUMPTION IN THE PERSON'S PLACE OF BUSINESS OR ELSEWHERE, IF, IN THE SAME SHOW WINDOW OR OTHER LOCATION ON OR IN THE PLACE OF BUSINESS, THE PERSON ALSO DISPLAYS ANY FOOD NOT REPRESENTED TO THE PUBLIC AS HALAL, UNLESS THE PERSON DISPLAYS OVER THE HALAL AND NONHALAL FOOD SIGNS THAT READ, IN BLOCK LETTERS AT LEAST 4 INCHES HIGH, "HALAL FOOD" AND "NONHALAL FOOD", RESPECTIVELY, OR, AS TO THE DISPLAY OF MEAT ALONE, "HALAL MEAT" AND "NONHALAL MEAT", RESPECTIVELY.

(F) (1) IN THIS SUBSECTION, "ARABIC CHARACTER" MEANS:

(I) ANY ARABIC WORD OR LETTER; OR

(II) ANY SYMBOL, EMBLEM, SIGN, INSIGNIA, OR OTHER MARK THAT SIMULATES AN ARABIC WORD OR LETTER.

(2) IN CONNECTION WITH ANY PLACE OF BUSINESS THAT SELLS OR OFFERS FOR SALE ANY FOOD, A PERSON MAY NOT DISPLAY, WHETHER IN A WINDOW, DOOR, OR OTHER LOCATION ON OR IN THE PLACE OF BUSINESS, IN ANY HANDBILL OR OTHER PRINTED MATTER DISTRIBUTED IN OR OUTSIDE OF THE PLACE OF BUSINESS, OR OTHERWISE IN ANY ADVERTISEMENT, ANY ARABIC CHARACTERS, OR ANY OTHER REPRESENTATION TO THE PUBLIC THAT THE PLACE OF BUSINESS SELLS OR OFFERS FOR SALE HALAL FOOD OR MEAT, UNLESS THE PERSON ALSO DISPLAYS IN CONJUNCTION WITH THE ARABIC CHARACTERS OR OTHER REPRESENTATION, IN ENGLISH, LETTERS OF AT LEAST THE SAME SIZE AS THE ARABIC CHARACTERS, THE WORDS "WE SELL HALAL MEAT AND FOOD ONLY", "WE SELL NONHALAL MEAT AND FOOD ONLY", OR "WE SELL BOTH HALAL AND NONHALAL MEAT AND FOOD", AS APPROPRIATE.

(G) POSSESSION OF NONHALAL FOOD IN ANY PLACE OF BUSINESS ADVERTISING THE SALE OF HALAL FOOD ONLY IS PRESUMPTIVE EVIDENCE THAT THE PERSON IN POSSESSION OFFERS THE NONHALAL FOOD FOR SALE WITH INTENT TO DEFRAUD.

14–3603.

A PERSON MAY NOT:

(1) WILLFULLY MARK, STAMP, TAG, BRAND, LABEL, OR IN ANY OTHER WAY OR BY ANY OTHER MEANS OF IDENTIFICATION REPRESENT, OR CAUSE TO BE MARKED, STAMPED, TAGGED, BRANDED, LABELED, OR REPRESENTED, AS HALAL A FOOD PRODUCT THAT IS NOT HALAL;

(2) WILLFULLY REMOVE, DEFACE, OBLITERATE, COVER, ALTER, OR DESTROY, OR CAUSE TO BE REMOVED, DEFACED, OBLITERATED, COVERED, ALTERED, OR DESTROYED, THE ORIGINAL SLAUGHTERHOUSE PLUMBA OR ANY OTHER MARK, STAMP, TAG, BRAND, LABEL, OR ANY OTHER MEANS OF IDENTIFICATION AFFIXED TO FOOD PRODUCTS TO INDICATE THAT THOSE FOOD PRODUCTS ARE HALAL; OR

(3) KNOWINGLY SELL, DISPOSE OF, OR HAVE IN THE PERSON'S POSSESSION, FOR THE PURPOSE OF RESALE TO ANOTHER PERSON AS HALAL:

(I) ANY FOOD PRODUCT NOT HAVING AFFIXED TO THE FOOD PRODUCT THE ORIGINAL SLAUGHTERHOUSE PLUMBA OR ANY OTHER MARK, STAMP, TAG, BRAND, LABEL, OR OTHER MEANS OF IDENTIFICATION EMPLOYED TO INDICATE THAT THE FOOD PRODUCT IS HALAL; OR

(II) ANY FOOD PRODUCT TO WHICH THE SLAUGHTERHOUSE PLUMBA, MARK, STAMP, TAG, BRAND, LABEL, OR OTHER MEANS OF IDENTIFICATION HAS BEEN FRAUDULENTLY AFFIXED.

14–3604.

A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 113

(House Bill 1085)

AN ACT concerning

Washington County – Regulation of Special Events

FOR the purpose of prohibiting certain persons, corporations, partnerships, associations, and entities from holding certain events without first obtaining a certain special event permit; authorizing the Board of County Commissioners of Washington County to adopt certain regulations by ordinance or resolution concerning certain special event permit applications, processes, fees, penalties, appeal procedures, and exceptions; exempting certain events from the provisions of this Act; defining certain terms; and generally relating to special events in Washington County.

BY adding to
The Public Local Laws of Washington County
Section 10–501 through 10–504 to be under the new subtitle "Subtitle 5. Special Events"
Article 22 – Public Local Laws of Maryland
(2007 Edition, as amended)

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

Article 22 – Washington County

SUBTITLE 5. SPECIAL EVENTS

10–501.

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

(B) "ATHLETIC EVENT" MEANS:

(1) AN ORGANIZED COMPETITIVE EVENT IN WHICH A GROUP OF PEOPLE COLLECTIVELY ENGAGE IN A SPORT OR FORM OF PHYSICAL ACTIVITY, INCLUDING RUNNING, JOGGING, WALKING, BICYCLING, OR SKATING ON:

(I) PUBLIC PROPERTY WITHIN THE UNINCORPORATED AREA OF WASHINGTON COUNTY IF THE EXPECTED ATTENDANCE, INCLUDING PARTICIPANTS AND SPECTATORS, IS GREATER THAN 100 PEOPLE; OR

(II) A COUNTY ROAD; OR

(2) A RECREATIONAL EVENT IN WHICH A GROUP OF PEOPLE COLLECTIVELY ENGAGE IN A SPORT OR FORM OF PHYSICAL ACTIVITY, INCLUDING RUNNING, JOGGING, WALKING, BICYCLING, OR SKATING ON:

(I) PUBLIC PROPERTY WITHIN THE UNINCORPORATED AREA OF WASHINGTON COUNTY IF THE EXPECTED ATTENDANCE, INCLUDING PARTICIPANTS AND SPECTATORS, IS GREATER THAN 100 PEOPLE; OR

(II) A COUNTY ROAD IF THE EXPECTED ATTENDANCE, INCLUDING PARTICIPANTS AND SPECTATORS, IS GREATER THAN 50 PEOPLE.

(C) (1) "ENTERTAINMENT EVENT" MEANS AN EVENT ORGANIZED FOR THE PRIMARY PURPOSE OF ENTERTAINING OR AMUSING PEOPLE AND HELD ON PUBLIC OR PRIVATE PROPERTY WITHIN THE UNINCORPORATED AREA OF WASHINGTON COUNTY, ~~INCLUDING:~~ IF THE EXPECTED ATTENDANCE, INCLUDING PARTICIPANTS AND SPECTATORS, IS GREATER THAN 250 PEOPLE.

(2) "ENTERTAINMENT EVENT" INCLUDES:

(I) PARADES;

(II) BONANZAS;

(III) CARNIVALS;

(IV) FAIRS; OR

(V) CONCERTS.

(D) "EVENT REQUIRING ASSISTANCE" MEANS AN EVENT:

(1) THAT REQUIRES THE CLOSURE OF A ROADWAY OR INTERSECTION IN WASHINGTON COUNTY;

(2) THAT REQUIRES THE REROUTING OF TRAFFIC ON A ROADWAY OR INTERSECTION IN WASHINGTON COUNTY; OR

(3) THAT REQUIRES THE ASSISTANCE OF COUNTY LAW ENFORCEMENT, TRAFFIC CONTROL, EMERGENCY SERVICES, OR OTHER COUNTY STAFF AT A LEVEL WHICH EXCEEDS NORMAL STAFFING LEVELS.

(E) "SPECIAL EVENT" MEANS AN ATHLETIC EVENT, ENTERTAINMENT EVENT, OR EVENT REQUIRING ASSISTANCE WHETHER HELD FOR PROFIT, NONPROFIT, OR CHARITABLE PURPOSES.

10–502.

SUBJECT TO § 10–504 OF THIS SUBTITLE, AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, OR OTHER ENTITY, WHETHER PUBLIC OR PRIVATE, MAY NOT HOLD A SPECIAL EVENT WITHOUT FIRST OBTAINING A SPECIAL EVENT PERMIT.

10–503.

THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY MAY, BY ORDINANCE OR RESOLUTION, ADOPT REGULATIONS CONCERNING:

(1) SPECIAL EVENT PERMIT APPLICATION REQUIREMENTS;

(2) SPECIAL EVENT PERMIT PROCESSES;

(3) SPECIAL EVENT PERMIT APPLICATION FEES;

(4) CIVIL PENALTIES AND CITATIONS FOR FAILURE TO COMPLY WITH THIS SUBTITLE OR ANY REGULATIONS ADOPTED BY ORDINANCE OR REGULATION BY THE BOARD UNDER THIS SUBTITLE;

(5) SPECIAL EVENT PERMIT APPEAL PROCEDURES; AND

(6) EVENTS DETERMINED BY THE BOARD TO BE EXCEPTED FROM THE DEFINITION OF SPECIAL EVENT.

10–504.

THIS SUBTITLE DOES NOT APPLY TO THE FOLLOWING TYPES OF EVENTS:

(1) UNLESS IT IS AN EVENT REQUIRING ASSISTANCE, AN ATHLETIC EVENT OR ENTERTAINMENT EVENT:

(I) SPONSORED BY AND HELD ON PROPERTY OWNED BY THE BOARD OF EDUCATION OF WASHINGTON COUNTY OR A PRIVATE OR PAROCHIAL SCHOOL;

(II) HELD AT A PRIVATELY OWNED GOLF FACILITY OR OTHER LICENSED RECREATIONAL SITE DURING NORMAL DAILY OPERATIONS IF THE NUMBER OF PARTICIPANTS AND SPECTATORS DOES NOT EXCEED THE NUMBER OF PEOPLE THAT CAN BE SERVED BY THE FACILITIES; OR

(III) HELD INSIDE A PERMANENT AND FULLY ENCLOSED STRUCTURE DESIGNED PRIMARILY FOR THE GATHERING OF PEOPLE, INCLUDING A PLACE OF WORSHIP, PUBLIC AUDITORIUM, THEATER, RECREATION HALL, OR GYMNASIUM, IF THE MAXIMUM NUMBER OF PARTICIPANTS AND SPECTATORS DOES NOT EXCEED THE MAXIMUM CAPACITY OF THE STRUCTURE;

(2) UNLESS IT IS AN EVENT REQUIRING ASSISTANCE, AN ATHLETIC EVENT HELD ON PUBLIC PROPERTY AS PART OF THE REGULAR ACTIVITY OF AN ATHLETIC OR RECREATIONAL SPORTS LEAGUE THAT HAS RECEIVED PERMISSION TO USE PUBLIC FACILITIES FROM THE WASHINGTON COUNTY DEPARTMENT OF PARKS AND RECREATION; AND

(3) AN ATHLETIC EVENT OR ENTERTAINMENT EVENT SPONSORED AND DIRECTED IN WHOLE BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 114

(House Bill 1156)

AN ACT concerning

Labor and Employment – Pay Disparity Data – Reporting

FOR the purpose of authorizing the Commissioner of Labor and Industry to collect certain employee data; authorizing the Commissioner to analyze certain records to study pay disparity issues; requiring the Commissioner to provide a certain report to the General Assembly; providing for the termination of this Act; and generally relating to the reporting of pay disparity data.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–305
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

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

Article – Labor and Employment

3–305.

(a) **[**(1)**]** Each employer shall keep each record that the Commissioner requires on:

[(i)**] (1)** wages of employees;

[(ii)**] (2)** job classifications of employees; **[**and**]**

(3) RACIAL CLASSIFICATION OF EMPLOYEES;

(4) GENDER OF EMPLOYEES; AND

[(iii)**] (5)** other conditions of employment.

[(2)**] (B)** An employer shall keep the records required under this **[**subsection**] SECTION** for the period of time that the Commissioner requires.

[(b)**] (C)** On the basis of the records required under this section, an employer shall make each report that the Commissioner requires.

(D) THE COMMISSIONER MAY ANALYZE THE RECORDS REQUIRED UNDER THIS SECTION TO STUDY PAY DISPARITY ISSUES.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Commissioner of Labor and Industry shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, regarding the analysis of data collected under this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 5 years and 3 months and, at the end of December 31, 2013, 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 8, 2008.

CHAPTER 115

(House Bill 1225)

AN ACT concerning

Montgomery County – Alcoholic Beverages – Licenses Held by Revenue Authority for Public Golf Courses

MC 807–08

FOR the purpose of authorizing the Executive Director of the Montgomery County Revenue Authority or the Executive Director's designee to hold certain alcoholic beverages licenses for the limited use of public golf courses that are under the jurisdiction of the Revenue Authority; specifying that certain licenses be signed by the Executive Director or the Executive Director's designee; requiring the Executive Director or the Executive Director's designee to designate individuals to complete certain training; making certain stylistic changes; and generally relating to alcoholic beverages licenses in Montgomery County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–102.2
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

9–102.2.

(a) **(1)** The Director or Deputy Director of the Montgomery County Parks Department of the Maryland–National Capital Park and Planning Commission may hold more than **[**1**]** **ONE** of the following alcoholic beverages licenses for the limited use of public golf courses that are under the Commission's jurisdiction in Montgomery County:

[(1)**](I)** A Class H beer (on–sale) license; or

[(2)**](II)** A Class H beer and light wine (on–sale) license.

(2) THE EXECUTIVE DIRECTOR OF THE MONTGOMERY COUNTY REVENUE AUTHORITY OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY HOLD MORE THAN ONE OF THE FOLLOWING ALCOHOLIC BEVERAGES LICENSES FOR THE LIMITED USE OF PUBLIC GOLF COURSES THAT ARE UNDER THE JURISDICTION OF THE REVENUE AUTHORITY:

(I) A CLASS H BEER(ON–SALE) LICENSE; OR

(II) A CLASS H BEER AND LIGHT WINE(ON–SALE) LICENSE.

(3) A LICENSE ISSUED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE SIGNED BY THE REVENUE AUTHORITY'S EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(b) (1) As a condition to holding any license under this section, the Director or Deputy Director **OF THE MONTGOMERY COUNTY PARKS DEPARTMENT OF THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION OR THE EXECUTIVE DIRECTOR OF THE MONTGOMERY COUNTY REVENUE AUTHORITY OR THE EXECUTIVE DIRECTOR'S DESIGNEE, RESPECTIVELY,** shall designate an individual with respect to each golf course to complete training in an alcohol awareness program approved under § 13–101 of this article.

(2) The individual designated **[**by the Director or Deputy Director**]** **TO COMPLETE TRAINING IN AN ALCOHOL AWARENESS PROGRAM UNDER PARAGRAPH (1) OF THIS SUBSECTION** shall:

(i) Represent the concessionaire; and

(ii) Be involved with the management of the sale of beer or light wine by the concessionaire at the golf course.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 116

(House Bill 1443)

AN ACT concerning

Department of Human Resources – Reorganization

FOR the purpose of repealing the Community Services Administration in the Department of Human Resources; repealing provisions of law relating to the

Administration's purposes, personnel, powers, and duties; transferring the Office of Home Energy Programs and the Energy Assistance Program to the Family Investment Administration; placing the Commission on Responsible Fatherhood in the Department, rather than the Child Support Enforcement Administration, for certain purposes; making certain conforming changes; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, and real and personal property; providing for certain corrections in cross–references and terminology; making this Act an emergency measure; and generally relating to reorganizing the Department of Human Resources.

BY renumbering
Article – Human Services
Section 6–301 through 6–308, respectively, and the subtitle "Subtitle 3. Energy Assistance Program"
to be Section 5–5A–01 through 5–5A–08, respectively, and the subtitle "Subtitle 5A. Energy Assistance Program"
Annotated Code of Maryland
(2007 Volume)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 2–301, 5–205(a), 6–101, 6–412(a), 6–413(c) and (d), and 6–602
Annotated Code of Maryland
(2007 Volume)

BY repealing
Article – Human Services
Section 6–201 through 6–206 and the subtitle "Subtitle 2. Community Services Administration"
Annotated Code of Maryland
(2007 Volume)

Preamble

WHEREAS, Chapter 196 of the Acts of 1984 created the Community Services Administration in the Department of Human Resources; and

WHEREAS, The purposes of the Community Services Administration are to establish and participate in youth and work–training programs, urban and rural community action programs, special programs to combat poverty in rural and urban areas, employment and investment incentive programs, and work–experience

programs; to combat unemployment; and to assist in the education, training, and economic advancement of the residents of the State; and

WHEREAS, The Family Investment Administration and the Social Services Administration in the Department of Human Resources can effectively perform these functions; and

WHEREAS, It is desirable to consolidate and better coordinate the activities of the various administrations in the Department of Human Resources and to define their combined mandate; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 6–301 through 6–308, respectively, and the subtitle "Subtitle 3. Energy Assistance Program" of Article – Human Services of the Annotated Code of Maryland be renumbered to be Section(s) 5–5A–01 through 5–5A–08, respectively, and the subtitle "Subtitle 5A. Energy Assistance Program".

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

Article – Human Services

2–301.

The following units are in the Department:

(1) the Child Support Enforcement Administration;

(2) **[**the Community Services Administration;

(3)**]** the Family Investment Administration;

[(4)**] (3)** the Social Services Administration;

[(5)**] (4)** the Maryland Commission for Women; and

[(6)**] (5)** any other unit that by law is declared to be part of the Department.

5–205.

(a) The Administration shall be the central coordinating and directing agency of all public assistance programs in the State, including:

(1) the Family Investment Program and related cash benefit programs;

(2) public assistance to adults;

(3) emergency assistance;

(4) food stamps;

(5) medical assistance eligibility determinations; **[**and**]**

(6) THE ENERGY ASSISTANCE PROGRAM; AND

[(6)**] (7)** any other public assistance activities financed wholly or partly by the Administration.

6–101.

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

(b) **[**"Administration" means the Community Services Administration.

(c)**]** "Department" means the Department of Human Resources.

[(d) "Executive Director" means the Executive Director of Community Services.

(e)**] (C)** "Secretary" means the Secretary of Human Resources.

[Subtitle 2. Community Services Administration.**]**

[6–201.

There is a Community Services Administration in the Department.**]**

[6–202.

The purposes of the Administration are to:

(1) establish and participate in:

(i) youth and work–training programs;

(ii) urban and rural community action programs;

(iii) special programs to combat poverty in rural and urban areas;

(iv) employment and investment incentive programs; and

(v) work–experience programs;

(2) combat unemployment; and

(3) assist in the education, training, and economic advancement of the residents of the State.**]**

[6–203.

(a) (1) With the approval of the Governor, the Secretary shall appoint the Executive Director.

(2) The Executive Director is the chief administrative and executive officer of the Administration.

(b) (1) With the approval of the Governor, the Secretary shall appoint a deputy director of the Administration.

(2) The deputy director is the principal assistant to the Executive Director.

(c) The Executive Director and deputy director shall have experience and interest in the advancement and development of economic opportunity.

(d) The Executive Director and the deputy director are in the executive service or management service of the State Personnel Management System.**]**

[6–204.

(a) The Administration may employ a staff in accordance with the State budget.

(b) Except as otherwise provided by law, the employees of the Administration are subject to the provisions of the State Personnel and Pensions Article.**]**

[6–205.

The Administration, the Executive Director, and the deputy director exercise their authority, duties, and functions under any State law subject to the authority of the Secretary under any State law.**]**

[6–206.

(a) (1) The Administration shall maintain liaison with:

(i) the United States Department of Health and Human Services;

(ii) local commissions on economic opportunity;

(iii) citizens' groups; and

(iv) any other State, federal, and local units.

(2) The Administration shall consult with and advise the local entities described in paragraph (1) of this subsection regarding their economic opportunity programs.

(b) The Administration shall:

(1) collect and assemble information relating to economic opportunity from other units of the State and federal governments; and

(2) disseminate information to further economic opportunity programs in the State by publication, advertisement, conferences, workshops, programs, lectures, or other means.

(c) (1) Consistent with this subtitle and other applicable laws, the Administration may enter into contracts or assume any other function necessary to carry out this subtitle.

(2) The Administration may enter into a contract with any other unit or institution of this State, any other state, or the federal government for any study or research activity that is necessary and proper.

(d) If the federal government or a person offers or grants any services, equipment, supplies, materials, or funds to the State or to a county or municipal corporation in the State for the purposes of economic opportunity, the Administration may accept the assistance on behalf of the State and authorize any officer of the State or a county or municipal corporation to receive and use the assistance.**]**

6–412.

(a) The **[**Administration**]** **DEPARTMENT** shall manage the Program.

6–413.

(c) (1) Each administering agency shall apply to the **[**Administration**]** **DEPARTMENT** for a Program grant.

(2) The application shall include the procedures that the administering agency will use to:

(i) notify emergency food providers of the availability of Program grants;

(ii) approve emergency food providers as recipients of Program grants; and

(iii) allocate Program grants among approved emergency food providers.

(d) Before an administering agency may receive a Program grant, the **[**Administration**]** **DEPARTMENT** must approve the application.

6–602.

(a) There is a Commission on Responsible Fatherhood.

(b) The Commission:

(1) is independent; but

(2) is located in the **[**Child Support Enforcement Administration of the**]** Department for budgetary and administrative purposes only.

SECTION 3. AND BE IT FURTHER ENACTED, That the continuity of every division, board, commission, authority, council, committee, office, and other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as otherwise provided in this Act, all findings and determinations, permits and licenses, applications for permits and licenses, rules and regulations, proposed rules and regulations, standards and guidelines, proposed standards and guidelines, orders and other directives, forms, plans, memberships, special funds, appropriations, grants, loans, applications and commitments for grants, loans, and tax credits, contracts, real and personal property, equipment, investigations, administrative and judicial proceedings, rights to sue and be sued, and all other duties and responsibilities associated with those functions transferred by this Act shall continue in effect, as provided by this Act, until completed, withdrawn, canceled, modified, or otherwise changed in accordance with law.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the terms of office of an appointed or elected member of any division, board, commission, authority, council, committee, office, or unit. An individual who is a member of a division, board, commission, authority, council, committee, office, or unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction affected by or flowing from any statute here amended, repealed, or transferred, and validly entered into before the effective date of this Act, and every right, duty, or interest following from the transaction, remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced pursuant to law.

SECTION 7. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2008 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 8. 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 8, 2008.

CHAPTER 117

(House Bill 1581)

AN ACT concerning

Private Passenger Motor Vehicle Insurance, Homeowner's Insurance, and Personal Insurance – Renewals of Policies – Transfers of Policyholders Between Insurers

FOR the purpose of providing that, with respect to private passenger motor vehicle insurance policies and homeowner's insurance policies, the transfer of a policyholder between certain insurers within a certain insurance holding company system is a renewal under certain circumstances; providing that, with respect to certain policies of personal insurance and private passenger motor vehicle liability insurance, the issuance by an insurer of a new policy to replace an expiring policy issued by that insurer is a renewal; providing that, with respect to certain policies of personal insurance and private passenger motor vehicle liability insurance, the issuance by an insurer of a new policy to replace an expiring policy issued by another admitted insurer within a certain insurance holding company system is a renewal under certain circumstances; requiring, for certain policies of personal insurance and private passenger motor vehicle liability insurance, that certain notice of the transfer of a policyholder between certain admitted insurers be provided under certain circumstances; providing for the application of this Act; and generally relating to transfers of policyholders between insurers and renewals of policies of private passenger motor vehicle insurance, homeowner's insurance, and personal insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–501(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 27–501(q) and 27–601.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–610

Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Insurance

27–501.

(a) (1) An insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk for a reason based wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason.

(2) Except as provided in this section, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes.

(Q) FOR PURPOSES OF THIS SECTION, WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE INSURANCE POLICIES AND HOMEOWNER'S INSURANCE POLICIES, THE TRANSFER OF A POLICYHOLDER BETWEEN ADMITTED INSURERS WITHIN THE SAME INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7–101 OF THIS ARTICLE, IS A RENEWAL IF:

(1) THE POLICYHOLDER'S PREMIUM DOES NOT INCREASE; AND

(2) THE POLICYHOLDER DOES NOT EXPERIENCE A REDUCTION IN COVERAGE.

27–601.1.

(A) FOR PURPOSES OF THIS SUBTITLE, WITH RESPECT TO POLICIES OF PERSONAL INSURANCE AND PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE, THE ISSUANCE BY AN INSURER OF A NEW POLICY TO REPLACE AN EXPIRING POLICY ISSUED BY THAT INSURER IS A RENEWAL.

(B) FOR PURPOSES OF THIS SUBTITLE, WITH RESPECT TO POLICIES OF PERSONAL INSURANCE AND PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE, THE ISSUANCE BY AN INSURER OF A NEW POLICY TO REPLACE AN EXPIRING POLICY ISSUED BY ANOTHER ADMITTED INSURER WITHIN THE SAME

INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7–101 OF THIS ARTICLE, IS A RENEWAL IF:

(1) THE POLICYHOLDER'S PREMIUM DOES NOT INCREASE; AND

(2) THE POLICYHOLDER DOES NOT EXPERIENCE A REDUCTION IN COVERAGE.

27–610.

(a) (1) This section applies only to policies of personal insurance and private passenger motor vehicle liability insurance policies subject to § 27–613 of this subtitle.

(2) Unless an insurer has provided notice of its intention not to renew a policy in compliance with this subtitle, the insurer must provide each policyholder with notice of renewal premium due at least 45 days before the due date.

(3) IF A POLICYHOLDER IS BEING TRANSFERRED BETWEEN ADMITTED INSURERS WITHIN THE SAME INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7–101 OF THIS ARTICLE, THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL INCLUDE DISCLOSURE OF THE TRANSFER.

[(3)**] (4)** A licensed insurance producer may provide notice under paragraph (2) of this subsection on behalf of the insurer.

[(4)**] (5)** The duty to provide notice under paragraph (2) of this subsection is deemed discharged if:

(i) the insurer shows that its established procedures would have resulted in placing the notice of renewal premium due in the United States mail; and

(ii) there is no showing that in fact the notice was not placed in the mail.

(b) If an insurer fails to provide notice of renewal premium due under subsection (a) of this section, and subsequently the policyholder fails to make timely payment of the renewal premium, the insurer must:

(1) provide coverage for each claim that:

(i) would have been covered under the policy; and

(ii) arises within 45 days after the date the insured discovers or should have discovered that the policy was not renewed; and

(2) renew the policy on tender of payment within 30 days after the policyholder discovers or should have discovered that the policy was not renewed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of private passenger motor vehicle insurance, homeowner's insurance, and personal insurance issued, delivered, or renewed in the State on or after October 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.

CHAPTER 118

(House Bill 1627)

AN ACT concerning

Election Law – Special Congressional Election

FOR the purpose of altering the dates by which the Governor must issue a proclamation following a vacancy in the office of Representative in Congress; specifying circumstances in which a special primary election is not required; specifying procedures for filing certificates of candidacy, certificates of nomination, and petitions for a special general election when a special primary election is not held; establishing procedures for the certification, posting, and challenge of certain ballots; authorizing the State Administrator of Elections to alter certain time limits under certain circumstances; providing for a certain exception; providing for the resolution of certain conflicts of law; making this Act an emergency measure; providing for the termination of this Act; and generally relating to special elections to fill a vacancy in the office of Representative in Congress.

BY repealing and reenacting, with amendments,
Article – Election Law

Section 5–303, 5–703, 8–202, 8–710, and 8–711
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Election Law

5–303.

(a) Except as provided in subsections (b) and (c) of this section, a certificate of candidacy shall be filed not later than 9 p.m. on the Monday that is 10 weeks or 70 days before the day on which the primary election will be held.

(b) A certificate of candidacy for an office to be filled by a special election under this article shall be received and filed in the office of the appropriate board not later than 5 p.m. on the Monday that is 3 weeks or 21 days prior to the date for the special primary election specified by the Governor in the proclamation for the special primary election**, OR IF THERE IS ONLY A SPECIAL GENERAL ELECTION, ON THE DATE SPECIFIED BY THE GOVERNOR IN THE PROCLAMATION FOR THE SPECIAL GENERAL ELECTION**.

(c) The certificate of candidacy for the election of a write–in candidate shall be filed by the earlier of:

(1) 7 days after a total expenditure of at least $51 is made to promote the candidacy by a campaign finance entity of the candidate; or

(2) 5 p.m. on the Wednesday preceding the day of the election for which the certificate is filed.

5–703.

(a) Except for a candidate for a nonpartisan county board of education, this section applies to any candidate for public office subject to this title.

(b) A candidate for a public office may be nominated by petition under this subtitle if the candidate is not affiliated with any political party.

(c) (1) A candidate for public office who seeks nomination by petition shall file a declaration of intent to seek nomination by petition.

(2) The declaration of intent shall be filed with the board at which the candidate files a certificate of candidacy under Subtitle 3 of this title.

(3) The declaration of intent shall be filed as follows:

(i) in a year in which the Governor is elected or the Baltimore City municipal election is held, by the date and time specified for a candidate to file a certificate of candidacy;

(ii) in a year in which the President is elected, by July 1; and

(iii) for a special election to fill a vacancy for Representative in Congress, by the date and time specified for a candidate to file a certificate of candidacy in the Governor's proclamation.

(4) A candidate who seeks nomination by petition may not be charged a fee for filing the declaration of intent.

(d) (1) A candidate for public office who seeks nomination by petition shall file a certificate of candidacy not later than 5 p.m. on the first Monday in August in the year of the general election for the office.

(2) Except for the time of filing, the certificate of candidacy for a candidate who seeks nomination by petition shall comply with the requirements for a certificate of candidacy under Subtitle 3 of this title.

(e) (1) A candidate who seeks nomination by petition may not have the candidate's name placed on the general election ballot unless the candidate files with the appropriate board petitions signed by not less than 1% of the total number of registered voters who are eligible to vote for the office for which the nomination by petition is sought, except that the petitions shall be signed by at least 250 registered voters who are eligible to vote for the office.

(2) The petitions shall be filed as required in Title 6 of this article.

(3) The number of registered voters required to satisfy the requirements of paragraph (1) of this section shall be determined as of the deadline for changing party affiliation before the primary election for which the nomination is sought.

(f) (1) Except as provided in paragraph (2) of this subsection, a petition that contains the required number of signatures specified under subsection (e)(1) of this section shall be filed with the appropriate board by 5 p.m. on the first Monday in August in the year in which the general election is held.

(2) In a special election to fill a vacancy in the office of Representative in Congress, a petition that contains the required number of signatures shall be filed with the State Board by 5 p.m. on the day of the special primary election**, OR IF THERE IS ONLY A SPECIAL GENERAL ELECTION, ON THE DAY BY WHICH THE STATE CENTRAL COMMITTEES OF THE POLITICAL PARTIES MUST DESIGNATE THEIR CANDIDATES UNDER § 8–710(E) OF THIS ARTICLE FOR THE SPECIAL GENERAL ELECTION**.

8–202.

(a) A principal political party, as determined by the statement of registration issued by the State Board:

(1) shall use the primary election to:

(i) nominate its candidates for public office; and

(ii) elect all members of the local central committees of the political party; and

(2) may use the primary election in the year of a presidential election to elect delegates to a national presidential nominating convention.

(b) Except for a nominee for President or Vice President, the name of a nominee of a principal political party may not appear on the ballot in a general election if the individual has not:

(1) been nominated in the primary election; **[**or**]**

(2) been designated to fill a vacancy in nomination in accordance with Subtitle 5 of this title**; OR**

(3) BEEN DESIGNATED TO BE A CANDIDATE IN A SPECIAL GENERAL ELECTION IN ACCORDANCE WITH SUBTITLE 7 OF THIS TITLE.

(c) If a political party chooses to permit voters not affiliated with the party to vote in the party's primary election, the chairman of the party's State central committee shall so notify the State Board at least 6 months before the date of the primary election.

8–710.

(a) (1) Except as provided in paragraph (2) of this subsection, **[**if there is a vacancy in the office of Representative in Congress,**]** the Governor shall issue a proclamation**[**,**]** **IN ACCORDANCE WITH THIS SECTION** within 10 days after the date that**:**

(I) **[**the vacancy occurs or becomes known to the Governor, declaring that a special primary election and a special general election shall be held to fill the vacancy**]** **AN OFFICE OF REPRESENTATIVE IN CONGRESS BECOMES VACANT; OR**

(II) THE GOVERNOR ACCEPTS A WRITTEN NOTICE FROM THE REPRESENTATIVE ANNOUNCING A FUTURE DATE OF RESIGNATION.

(2) If the vacancy occurs during the period beginning 60 days before the regular primary election and ending on the last day of the term, the Governor may:

(i) decline to issue a proclamation; and

(ii) allow the office to remain vacant for the remainder of the term.

(b) **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION:**

(1) **[**The**]** **THE** Governor's proclamation shall specify the dates of the special primary election and the special general election**[**.**];**

(2) **[**The**]** **THE** special primary election shall be held on a Tuesday that is at least 36 days after the date of the proclamation**[**.**]; AND**

(3) **[**The**]** **THE** special general election shall be held on a Tuesday that is at least 36 days after the date of the special primary election.

(c) (1) The Governor shall:

(i) immediately give public notice of the proclamation; and

(ii) deliver the proclamation to the State Administrator.

(2) The State Administrator shall:

(i) immediately notify the State Board members and the local boards of the counties that comprise the congressional district; and

(ii) forward to each of those local boards a copy of the proclamation.

(d) (1) Notwithstanding any other provision of this section, if the vacancy occurs or becomes known to the Governor during the period beginning 120 days before the regular primary election for Representatives in Congress and ending 40 days before the primary election, the Governor's proclamation shall order that:

(i) the special primary election shall be merged with the regular primary election;

(ii) any individual who files a certificate of candidacy for the regular primary election shall be deemed to have filed a certificate of candidacy for the special primary election; and

(iii) any other qualified individual may file a certificate of candidacy, for both the special primary election and the regular primary election, not later than 9 p.m. on the day that is 2 days after the issuance of the proclamation.

(2) A vote cast for a candidate in the merged primary election shall be deemed a vote for that candidate in both the special primary election and the regular primary election.

(3) Two certificates of nomination, one for the special primary election and one for the regular primary election, shall be issued to each candidate nominated in the merged primary election.

(4) Notwithstanding any provision of this article:

(i) a nominee for the special primary election may decline the nomination by notifying the State Board not later than 5 p.m. on the Wednesday following the primary election;

(ii) the appropriate political party shall fill the vacancy in nomination not later than 5 p.m. on the Thursday following the primary election; and

(iii) a petition for recount and recanvass of the special primary election shall be filed not later than 5 p.m. on the Wednesday following the primary election.

(E) (1) IF THE OFFICE BECOMES VACANT, OR WILL BECOME VACANT DUE TO RESIGNATION, AFTER THE DATE OF THE REGULAR PRIMARY ELECTION, THE GOVERNOR MAY ISSUE A PROCLAMATION PROVIDING:

(I) THAT A SPECIAL PRIMARY ELECTION MAY NOT BE HELD;

(II) FOR THE DATE OF THE SPECIAL GENERAL ELECTION, WHICH SHALL BE AT LEAST 36 DAYS AND NOT MORE THAN 60 DAYS AFTER THE DATE OF THE PROCLAMATION; AND

(III) FOR DATES BY WHICH CERTIFICATES OF CANDIDACY, CERTIFICATES OF NOMINATION, AND PETITIONS MUST BE FILED WITH THE APPROPRIATE BOARD.

(2) IF THE GOVERNOR ISSUES A PROCLAMATION UNDER THIS SUBSECTION:

(I) NOMINATIONS FOR THE OFFICE SHALL BE MADE:

~~A.~~ 1. WITH RESPECT TO A CANDIDATE OF A NONPRINCIPAL POLITICAL PARTY THAT DOES NOT HAVE LOCAL CENTRAL COMMITTEES, BY THE STATE CENTRAL COMMITTEE OF THE POLITICAL PARTY; ~~AND~~

~~B.~~ 2. WITH RESPECT TO A CANDIDATE NOT AFFILIATED WITH A POLITICAL PARTY, IN ACCORDANCE WITH § 5–703 OF THIS ARTICLE; AND

3. WITH RESPECT TO A CANDIDATE OF A POLITICAL PARTY THAT HAS LOCAL CENTRAL COMMITTEES, AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION;

(II) NOTWITHSTANDING TITLE 9, SUBTITLE 2 OF THIS ARTICLE, THE STATE ADMINISTRATOR SHALL CERTIFY THE CONTENTS AND ARRANGEMENT OF EACH BALLOT FOR THE SPECIAL GENERAL ELECTION AS SOON AS PRACTICABLE, THE BALLOT SHALL BE POSTED FOR 1 DAY, AND ANY CHALLENGES MUST BE FILED BY 5:00 P.M. ON THE DAY OF THE POSTING;

(III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE THAT SETS MINIMUM TIME LIMITS AND EXCEPT AS PROVIDED IN ITEM (IV) OF THIS PARAGRAPH, THE STATE ADMINISTRATOR MAY REDUCE THE AMOUNT OF TIME REQUIRED OR ALLOWED FOR ANY ELECTION–RELATED ACTION RELATING TO THE SPECIAL GENERAL ELECTION; AND

(IV) THE STATE ADMINISTRATOR MAY NOT ALTER ANY TIME REQUIREMENT RELATING TO VOTING OR POLLING PLACE PROCEDURES ON ELECTION DAY UNLESS AUTHORIZED BY THE PROCLAMATION.

(3) A POLITICAL PARTY THAT HAS LOCAL CENTRAL COMMITTEES SHALL MAKE A NOMINATION FOR A SPECIAL GENERAL ELECTION CALLED UNDER THIS SUBSECTION AS FOLLOWS:

(I) THE CENTRAL COMMITTEES OF THE POLITICAL PARTY IN EACH OF THE COUNTIES INCLUDED IN THE DISTRICT OF THE OFFICE SHALL VOTE TO RECOMMEND A CANDIDATE.

(II) IF THE CENTRAL COMMITTEES IN EACH COUNTY THAT IS INCLUDED IN THE DISTRICT OF THE OFFICE RECOMMEND THE SAME CANDIDATE, THE STATE CENTRAL COMMITTEE SHALL NOMINATE THAT CANDIDATE.

(III) IF THE CENTRAL COMMITTEES IN EACH COUNTY THAT IS INCLUDED IN THE DISTRICT OF THE OFFICE RECOMMEND DIFFERENT CANDIDATES, THE STATE CENTRAL COMMITTEE SHALL SELECT ONE OF THE CANDIDATES RECOMMENDED BY THE LOCAL CENTRAL COMMITTEES AS THE NOMINEE.

8–711.

(a) **[**At**]** **IF THERE IS A SPECIAL PRIMARY ELECTION, AT** least 20 days before the special primary election, the State Board shall certify to the appropriate local boards the name, residence, and party affiliation of each candidate who qualifies to appear on the primary election ballot.

(b) At least 20 days before the special general election, the State Board shall certify to the appropriate local boards the name, residence, and party affiliation of each nominee who qualifies to appear on the general election ballot.

SECTION 2. AND BE IT FURTHER ENACTED, That as to any conflict between this Act and any other provision of the Election Law Article, the provisions of this Act shall prevail.

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. It shall remain effective until December 31, 2008, and at the end

of December 31, 2008, 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 17, 2008.

CHAPTER 119

(House Bill 1253)

AN ACT concerning

Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Administrative and Enforcement Provisions

FOR the purpose of authorizing the Maryland Home Improvement Commission to deny, reprimand, suspend, or revoke certain licenses for failure to comply with certain legal terms or requirements in the Chesapeake and Atlantic Coastal Bays Critical Area; authorizing the Home Builder Registration Unit to deny, reprimand, suspend, or revoke a home builder's registration, or impose certain civil penalties on a registrant, for failure to comply with certain critical area legal terms and requirements; authorizing the Department of Natural Resources to revoke or suspend the license of a licensed tree expert for failure to comply with certain critical area legal terms and requirements; requiring the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays to notify the Maryland Home Improvement Commission ~~on a contractor's failure~~, the Home Builder Registration Unit, or the Department of Natural Resources on the failure of certain contractors to comply with certain terms or requirements in the Critical Area; authorizing the Critical Area Commission to adopt and amend certain regulations regarding certain matters; requiring the Critical Area Commission to adopt certain regulations; requiring that local Critical Area programs contain certain procedures, penalty provisions, and other elements; repealing a provision of law that allows for the omission of certain runoff prevention measures on certain sites; requiring a local jurisdiction to consider certain factors in the determination of certain penalties; requiring that the Critical Area Commission receive certain notice from a local jurisdiction within a certain time; establishing that certain development activities violate certain provisions of law; prohibiting a local jurisdiction from accepting certain applications for a variance or issuing certain authorizations unless certain conditions are satisfied; requiring a local jurisdiction to deny a variance and order certain actions under certain circumstances, and authorizing a local jurisdiction to grant proposed approval to a variance under certain

circumstances; ~~requiring the Critical Area Commission to review certain proposed variance approvals and issue certain decisions;~~ specifying the applicability of certain standards under certain circumstances; requiring the Critical Area Commission to consider certain factors when reviewing certain map amendments or refinements; prohibiting lot coverage in the buffer in excess of a certain amount, except under certain circumstances; specifying the applicability of certain limitations to the extent of lot coverage, with certain exceptions and subject to a certain construction; requiring the establishment of a certain buffer in a certain area, and allowing for certain reductions under certain circumstances; requiring that certain erosion protections consist of nonstructural shoreline stabilization measures, except under certain circumstances; ~~requiring that the Critical Area Commission consider a local jurisdiction's determination of a classification mistake and make a certain determination;~~ requiring the Department of the Environment to adopt certain regulations to include a certain waiver process; authorizing a local authority to obtain access and enter a certain property for certain purposes and under certain circumstances; requiring a local authority to take certain actions under certain circumstances related to certain violations; authorizing the Chairman of the Critical Area Commission to invoke certain sanctions and remedies and bring certain actions under certain circumstances; requiring that certain criminal prosecutions and suits for civil penalties be instituted within a certain time; modifying the initial planning areas for the determination of the Chesapeake Bay Critical Area and Atlantic Coastal Bays Critical Area by the use of a certain map; providing for the preparation, distribution, review, refinement, formal adoption, and periodic update of ~~a certain map~~ certain maps; requiring the Department of Natural Resources to notify the Department of Legislative Services regarding the date of completion of a certain mapping project; clarifying the applicability of certain provisions of law; specifying certain legislative findings; defining certain terms; requiring certain local jurisdictions to report to the Critical Area Commission by a certain date regarding certain procedures; prohibiting ~~a certain construction~~ certain constructions of this Act; making the effective date of a certain provision of this Act subject to a certain contingency; and generally relating to the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 8–101(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section ~~8–101(g)~~ 4.5–308(a), 8–101(g), and 8–311(a)
Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Regulation
Section 8–506
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–421(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1801, ~~8–1802(a)(15) through (18)~~ 8–1802(a)(13) through (23), 8–1806, 8–1807(a) and (b), 8–1808(c), (d), and (e), 8–1808.1(c) and (e)(2)(i), 8–1808.3, ~~8–1809(h) and~~ ~~(o)(1)~~ 8–1809(o)(1), 8–1811(b)(2), 8–1815(a), and 8–1815.1(b)
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 8–1802(a)(1)
Annotated Code of Maryland
(2007 Replacement Volume)

BY adding to
Article – Natural Resources
Section 8–1802(a)(15), 8–1808.10, and 8–1808.11
Annotated Code of Maryland
(2007 Replacement Volume)

Preamble

WHEREAS, Following extensive research and the issuance of a report by the United States Environmental Protection Agency that clearly demonstrated an alarming extent of degradation of the Chesapeake Bay, in significant part because of prominent land use and growth patterns, the Critical Area Commission was created in 1984 in order to preserve and restore water quality in the State, to maintain valued wildlife habitat, and to accommodate inevitable growth, and these same legislative concerns were addressed in 2002 when the protections of the Critical Area Program were expanded to include the Atlantic Coastal Bays; and

WHEREAS, The Critical Area, which comprises approximately 11% of Maryland's land mass, includes the majority of the State's most ecologically fragile and valuable properties; and

WHEREAS, From its inception, partnership between State and local government has been a cornerstone of the Critical Area Program; and

WHEREAS, To date local Critical Area programs are operative in Baltimore City, 16 counties, and 47 other municipalities, and Critical Area issues directly impact at least seven State departments; and

WHEREAS, After nearly a quarter–century of operation, the Critical Area Program has effectively influenced thousands of land use decisions, addressed and minimized the adverse impacts of growth associated with hundreds of requests for growth allocation, and represented a comprehensive effort between the State and local governments to enforce a variety of water quality and habitat protection standards; and

WHEREAS, Despite these efforts, additional measures are necessary in order to enhance a cooperative land use and natural resource management program that will restore the quality and productivity of the Chesapeake Bay, Atlantic Coastal Bays, their tidal tributaries, and associated land–based ecosystems; and

WHEREAS, Particularly in light of the ongoing, accelerating decline of the State's water quality resources and the loss of valuable shoreline areas due to erosion and global warming, it is the view of the General Assembly that significant improvements are in order at this time so as to accomplish Program preservation goals more effectively while streamlining the Program and enhancing its efficiency and predictability; and

WHEREAS, Experience has provided several strong indications of how to ensure those Program improvements; and

WHEREAS, A key element that is fundamental to the ordinary business operations of all other State agencies is the general authority to adopt regulations, but the ability of the Critical Area Commission to do so was rendered unclear by the March 10, 1987 Opinion of the Attorney General, 72 Md. Op. Atty. Gen. 14, 1987 WL 339797 (Md.A.G.), and it is the intent of this legislation to clarify and supersede that Opinion; and

WHEREAS, It is likewise the intent of this legislation to strengthen and clarify the reach of the Program where necessary to compensate for gaps in the current structure, such as the institution of more meaningful enforcement mechanisms, and to provide for fairer and more effective Program procedures around the State that will

continue to allow for flexibility in recognition of local partners' varying needs; now, therefore,

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

Article – Business Regulation

4.5–308.

(a) **(1)** The Unit may deny registration to an applicant, reprimand a registrant, suspend or revoke a registration, or impose a civil penalty on a registrant if the Unit determines that the applicant or registrant:

[(1)**]** **(I)** fraudulently or deceptively obtained or attempted to obtain a registration;

[(2)**]** **(II)** fraudulently or deceptively used a registration;

[(3)**]** **(III)** presented or attempted to present the home builder registration number of another registrant as the applicant's or registrant's home builder registration number;

[(4)**]** **(IV)** used or attempted to use an expired, suspended, or revoked home builder registration number;

[(5)**]** **(V)** impersonated or falsely represented oneself as a registered home builder;

[(6)**]** **(VI)** repeatedly violated this title;

[(7)**]** **(VII)** engaged in a pattern of unfair or deceptive trade practices under the Consumer Protection Act, as determined by a final administrative order or judicial decision;

[(8)**]** **(VIII)** repeatedly violated a local building, development, or zoning permit law or regulations, or a State or federal law or regulation, including an environmental protection law or regulation, that relates to the fitness and qualification or ability of the applicant or registrant to build homes;

[(9)**]** **(IX)** engaged in a pattern of poor workmanship as evidenced by one or more of the following:

[(i)**]** **1.** repeated unresolved building code violations;

[(ii)**]** **2.** repeated unsatisfied arbitration awards in favor of consumers against the applicant or registered home builder based on incomplete or substandard work; or

[(iii)**]** **3.** an unsatisfied final judgment in favor of a consumer;

[(10)**]** **(X)** repeatedly engaged in fraud, deception, misrepresentation, or knowing omissions of material facts related to home building contracts;

[(11)**]** **(XI)** had a similar registration or license denied, suspended, or revoked in another state or jurisdiction; **[**or**]**

[(12)**]** **(XII)** had the renewal of a similar registration or license denied for any cause other than failure to pay a renewal fee**; OR**

(XIII) IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AS DEFINED UNDER § 8–1802 OF THE NATURAL RESOURCES ARTICLE, FAILED TO COMPLY WITH:

1. THE TERMS OF A STATE OR LOCAL PERMIT, LICENSE, OR APPROVAL; OR

2. ANY STATE OR LOCAL LAW, AN APPROVED PLAN, OR OTHER LEGAL REQUIREMENT.

(2) THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS, AS ESTABLISHED UNDER TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE, SHALL NOTIFY THE UNIT OF ANY APPLICANT OR REGISTRANT WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER PARAGRAPH (1)(XIII) OF THIS SUBSECTION.

8–101.

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

(g) (1) "Home improvement" means:

(i) the addition to or alteration, conversion, improvement, modernization, remodeling, repair, or replacement of a building or part of a building that is used or designed to be used as a residence or dwelling place or a structure adjacent to that building; or

(ii) an improvement to land adjacent to the building.

(2) "Home improvement" includes:

(i) construction, improvement, or replacement, on land adjacent to the building, of a driveway, fall–out shelter, fence, garage, landscaping, **DECK,** **PIER,** porch, or swimming pool;

(ii) **A SHORE EROSION CONTROL PROJECT, AS DEFINED UNDER § 8–1001 OF THE NATURAL RESOURCES ARTICLE, FOR A RESIDENTIAL PROPERTY;**

(III) connection, installation, or replacement, in the building or structure, of a dishwasher, disposal, or refrigerator with an icemaker to existing exposed household plumbing lines;

[(iii)**] (IV)** installation, in the building or structure, of an awning, fire alarm, or storm window; ~~[~~and~~]~~

[(iv)**] (V)** work done on individual condominium units~~; AND~~

~~(VI) CONSTRUCTION, IMPROVEMENT, ALTERATION, OR REPLACEMENT OF LAND OR ANY STRUCTURE IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AS DEFINED UNDER § 8–1802 OF THE NATURAL RESOURCES ARTICLE~~.

(3) "Home improvement" does not include:

(i) construction of a new home;

(ii) work done to comply with a guarantee of completion for a new building project;

(iii) connection, installation, or replacement of an appliance to existing exposed plumbing lines that requires alteration of the plumbing lines;

(iv) sale of materials, if the seller does not arrange to perform or does not perform directly or indirectly any work in connection with the installation or application of the materials;

(v) work done on apartment buildings that contain four or more single–family units; **OR**

(vi) work done on the commonly owned areas of condominiums**[**; or

(vii) a shore erosion control project, as defined in § 8–1001 of the Natural Resources Article, for a residential property**]**.

8–311.

(a) Subject to the hearing provisions of § 8–312 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 or the management personnel of the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(2) fraudulently or deceptively uses a license;

(3) fails to give the Commission information required by this subtitle about an application for a license;

(4) fails to pass an examination required by this subtitle;

(5) under the laws of the United States or of any state, is convicted of a:

(i) felony; or

(ii) misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to engage in home improvement services;

(6) often fails to perform home improvement contracts;

(7) falsifies an account;

(8) engages in fraud;

(9) as a contractor or subcontractor fails to show financial solvency, based on the intended scope and size of the business in relation to total assets, liabilities, credit rating, and net worth;

(10) as a contractor or subcontractor lacks competence, as shown by the performance of an unworkmanlike, inadequate, or incomplete home improvement;

(11) violates this title;

(12) attempts to violate this title; **[**or**]**

(13) violates a regulation adopted under this title**; OR**

(14) IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AS DEFINED UNDER § 8–1802 OF THE NATURAL RESOURCES ARTICLE, FAILS TO COMPLY WITH:

(I) THE TERMS OF A STATE OR LOCAL PERMIT, LICENSE, OR APPROVAL ISSUED FOR HOME IMPROVEMENT; OR

(II) ANY STATE OR LOCAL LAW, AN APPROVED PLAN, OR OTHER LEGAL REQUIREMENT.

8–506.

(A) IN THIS SECTION, "CRITICAL AREA" HAS THE MEANING DESIGNATED UNDER § 8–1802 OF THE NATURAL RESOURCES ARTICLE.

(B) THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS, AS ESTABLISHED UNDER TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE, SHALL NOTIFY THE COMMISSION OF ANY CONTRACTOR WHO, IN THE CRITICAL AREA, FAILS TO COMPLY WITH:

(1) THE TERMS OF A STATE OR LOCAL PERMIT, LICENSE, OR APPROVAL ISSUED FOR HOME IMPROVEMENT; OR

(2) ANY STATE OR LOCAL LAW, APPROVED PLAN, OR OTHER LEGAL REQUIREMENT.

Article – Natural Resources

5–421.

(a) **(1)** The Department may permanently revoke or temporarily suspend the license of any licensed tree expert who **[**is**]:**

(I) IS found guilty of any fraud or deceit in obtaining the license, or guilty of negligence of wrongful conduct in the practice of tree culture or care**; OR**

(II) IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AS DEFINED UNDER § 8–1802 OF THIS ARTICLE, FAILS TO COMPLY WITH:

1. THE TERMS OF A STATE OR LOCAL PERMIT, LICENSE, OR APPROVAL; OR

2. ANY STATE OR LOCAL LAW, AN APPROVED PLAN, OR OTHER LEGAL REQUIREMENT.

(2) THE CRITICAL AREA COMMISSION SHALL NOTIFY THE DEPARTMENT OF ANY TREE EXPERT WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

8–1801.

(a) The General Assembly finds and declares that:

(1) The Chesapeake and the Atlantic Coastal Bays and their tributaries are natural resources of great significance to the State and the nation**, AND THEIR BEAUTY, THEIR ECOLOGICAL VALUE, AND THEIR ECONOMIC IMPACT ALL REACH FAR BEYOND ANY ONE LOCAL JURISDICTION**;

(2) The shoreline and adjacent lands**, PARTICULARLY THE BUFFER AREAS,** constitute a valuable, fragile, and sensitive part of this estuarine system, where human activity can have a particularly immediate and adverse impact on water quality and natural habitats;

(3) The capacity of these shoreline and adjacent lands to withstand continuing demands without further degradation to water quality and natural habitats is limited;

(4) Human activity is harmful in these shoreline areas, where the new development of nonwater–dependent structures or **[**the addition of impervious surfaces**] AN INCREASE IN LOT COVERAGE** is presumed to be contrary to the purpose of this subtitle, because these activities may cause adverse impacts, of both an immediate and a long–term nature, to the Chesapeake and Atlantic Coastal Bays, and thus it is necessary wherever possible to maintain a buffer of at least 100 feet landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands;

(5) National studies have documented that the quality and productivity of the waters of the Chesapeake Bay and its tributaries have declined due to the cumulative effects of human activity that have caused increased levels of pollutants, nutrients, and toxics in the Bay System and declines in more protective land uses such as forestland and agricultural land in the Bay region;

(6) Those portions of the Chesapeake and the Atlantic Coastal Bays and their tributaries within Maryland are particularly stressed by the continuing population growth and development activity concentrated in the Baltimore–Washington metropolitan corridor and along the Atlantic Coast;

(7) The quality of life for the citizens of Maryland is enhanced through the restoration of the quality and productivity of the waters of the Chesapeake and the Atlantic Coastal Bays, and their tributaries;

(8) The restoration of the Chesapeake and the Atlantic Coastal Bays and their tributaries is dependent, in part, on minimizing further adverse impacts to the water quality and natural habitats of the shoreline and adjacent lands, particularly in the buffer;

(9) The cumulative impact of current development and of each new development activity in the buffer is inimical to these purposes**, AND IT IS THEREFORE IMPERATIVE THAT STATE LAW ~~BE SUFFICIENT TO~~ PROTECT IRREPLACEABLE STATE BUFFER RESOURCES FROM UNPERMITTED ACTIVITY**; and

(10) There is a critical and substantial State interest for the benefit of current and future generations in fostering more sensitive development **[**activity**]** **AND MORE EFFECTIVE ENFORCEMENT** in a consistent and uniform manner along shoreline areas of the Chesapeake and the Atlantic Coastal Bays and their tributaries so as to minimize damage to water quality and natural habitats.

(b) It is the purpose of the General Assembly in enacting this subtitle:

(1) To establish a Resource Protection Program for the Chesapeake and the Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats; and

(2) To implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State **AND LOCAL LEADERSHIP, [**criteria**] CRITERIA,** and oversight.

8–1802.

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

(13) **(I) "INTENSELY DEVELOPED AREA" MEANS AN AREA OF AT LEAST 20 ACRES OR THE ENTIRE UPLAND PORTION OF THE CRITICAL AREA WITHIN A MUNICIPAL CORPORATION, WHICHEVER IS LESS, WHERE:**

1. RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL DEVELOPED LAND USES PREDOMINATE; AND

2. A RELATIVELY SMALL AMOUNT OF NATURAL HABITAT OCCURS.

(II) "INTENSELY DEVELOPED AREA" INCLUDES:

1. AN AREA WITH A HOUSING DENSITY OF AT LEAST FOUR DWELLING UNITS PER ACRE;

2. AN AREA WITH PUBLIC WATER AND SEWER SYSTEMS WITH A HOUSING DENSITY OF MORE THAN THREE DWELLING UNITS PER ACRE; OR

3. A COMMERCIAL MARINA REDESIGNATED BY A LOCAL JURISDICTION FROM A RESOURCE CONSERVATION AREA OR LIMITED DEVELOPMENT AREA TO AN INTENSELY DEVELOPED AREA THROUGH A MAPPING CORRECTION THAT OCCURRED BEFORE JANUARY 1, 2006.

(14) "Land classification" means the designation of land in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in accordance with the criteria adopted by the Commission as an intensely developed area or district, a limited development area or district, or a resource conservation area or district.

(15) (I) "LIMITED DEVELOPMENT AREA" MEANS AN AREA:

1. THAT IS DEVELOPED IN LOW OR MODERATE INTENSITY USES AND CONTAINS AREAS OF NATURAL PLANT AND ANIMAL HABITAT; AND

2. WHERE THE QUALITY OF RUNOFF HAS NOT BEEN SUBSTANTIALLY ALTERED OR IMPAIRED.

(II) "LIMITED DEVELOPMENT AREA" INCLUDES AN AREA:

1. WITH A HOUSING DENSITY RANGING FROM ONE DWELLING UNIT PER FIVE ACRES UP TO FOUR DWELLING UNITS PER ACRE;

2. WITH A PUBLIC WATER OR SEWER SYSTEM;

3. THAT IS NOT DOMINATED BY AGRICULTURAL LAND, WETLAND, FORESTS, BARREN LAND, SURFACE WATER, OR OPEN SPACE; OR

4. THAT IS LESS THAN 20 ACRES AND OTHERWISE QUALIFIES AS AN INTENSELY DEVELOPED AREA UNDER PARAGRAPH (13) OF THIS SUBSECTION.

[(14)**] (16)** "Local jurisdiction" means a county, or a municipal corporation with planning and zoning powers, in which any part of the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area, as defined in this subtitle, is located.

~~(15)~~ **(17) (I) "LOT COVERAGE" MEANS THE PERCENTAGE OF A TOTAL LOT OR PARCEL THAT IS:**

1. OCCUPIED BY A STRUCTURE, ACCESSORY STRUCTURE, PARKING AREA, DRIVEWAY, WALKWAY, OR ROADWAY; OR

2. COVERED WITH ~~A PAVER, WALKWAY~~ GRAVEL, STONE, SHELL, *IMPERMEABLE* DECKING, A PAVER, PERMEABLE PAVEMENT, OR ~~OTHER~~ ANY MANMADE MATERIAL.

(II) "LOT COVERAGE" INCLUDES THE ~~TOTAL~~ GROUND AREA COVERED OR OCCUPIED~~, INCLUDING ELEMENTS PROTRUDING FROM A BUILDING SUCH AS A STAIRWAY, CANTILEVERED DECK, CHIMNEY, OR OVERHANGING DECK OR BALCONY~~ BY A STAIRWAY OR *IMPERMEABLE* DECK.

(III) "LOT COVERAGE" DOES NOT ~~INCLUDE A~~ INCLUDE:

1. A FENCE OR WALL THAT IS LESS THAN 1 FOOT IN WIDTH THAT HAS NOT BEEN CONSTRUCTED WITH A ~~FOOTER~~ FOOTER;

2. A WALKWAY IN THE BUFFER OR EXPANDED BUFFER, INCLUDING A STAIRWAY, THAT PROVIDES DIRECT ACCESS TO A COMMUNITY OR PRIVATE PIER; ~~OR~~

3. A WOOD MULCH PATHWAY*; OR*

***4. A DECK WITH GAPS TO ALLOW WATER TO PASS FREELY*.**

[(15)**]** ~~**(16)**~~ **(18)** (i) "Program" means the critical area protection program of a local jurisdiction.

(ii) "Program" includes any amendments to the program.

[(16)**]** ~~**(17)**~~ **(19)** (i) "Program amendment" means any change or proposed change to an adopted program that is not determined by the Commission chairman to be a program refinement.

(ii) "Program amendment" includes a change to a zoning map that is not consistent with the method for using the growth allocation contained in an adopted program.

[(17)**]** ~~**(18)**~~ **(20)** (i) "Program refinement" means any change or proposed change to an adopted program that the Commission chairman determines will result in a use of land or water in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area in a manner consistent with the adopted program, or that will not significantly affect the use of land or water in the critical area.

(ii) "Program refinement" may include:

1. A change to an adopted program that results from State law;

2. A change to an adopted program that affects local processes and procedures;

3. A change to a local ordinance or code that clarifies an existing provision; and

4. A minor change to an element of an adopted program that is clearly consistent with the provisions of this subtitle and all of the criteria of the Commission.

[(18)**]** ~~**(19)**~~ **(21)** (i) "Project approval" means the approval of development, other than development by a State or local government agency, in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area by the appropriate local approval authority.

(ii) "Project approval" includes:

1. Approval of subdivision plats and site plans;

2. Inclusion of areas within floating zones;

3. Issuance of variances, special exceptions, and conditional use permits; and

4. Approval of rezoning.

(iii) "Project approval" does not include building permits.

(22) (I) "RESOURCE CONSERVATION AREA" MEANS AN AREA THAT IS CHARACTERIZED BY:

1. NATURE DOMINATED ENVIRONMENTS, SUCH AS WETLANDS, SURFACE WATER, FORESTS, AND OPEN SPACE; AND

2. RESOURCE–BASED ACTIVITIES, SUCH AS AGRICULTURE, FORESTRY, FISHERIES, OR AQUACULTURE.

(II) "RESOURCE CONSERVATION AREA" INCLUDES AN AREA WITH A HOUSING DENSITY OF LESS THAN ONE DWELLING PER FIVE ACRES.

(23) "TRIBUTARY STREAM" MEANS A PERENNIAL STREAM OR AN INTERMITTENT STREAM WITHIN THE CRITICAL AREA THAT HAS BEEN IDENTIFIED BY SITE INSPECTION OR IN ACCORDANCE WITH LOCAL PROGRAM PROCEDURES APPROVED BY THE COMMISSION.

8–1806.

(a) The Commission has all powers necessary for carrying out the purposes of this subtitle, including the following:

(1) **[**To adopt regulations and criteria in**] IN** accordance with Title 2, Subtitle 5 (Joint Committee on Administrative, Executive and Legislative Review) and Title 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article**, TO ADOPT AND AMEND REGULATIONS AS ~~NECESSARY AND APPROPRIATE TO~~ AUTHORIZED UNDER THIS SUBTITLE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE STATE AND LOCAL PROGRAMS**;

(2) To conduct hearings in connection with policies, proposed programs, and proposed regulations or amendments to regulations;

(3) To contract for consultant or other services; and

(4) To establish an advisory committee, composed of members of the Commission and local citizens and local stakeholder groups, to make recommendations to the Commission with respect to Atlantic Coastal Bays Critical Area programs.

(b) ~~AT A MINIMUM, REGULATIONS~~ REGULATIONS ADOPTED OR AMENDED UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL:

(1) ESTABLISH COMPREHENSIVE STANDARDS AND PROCEDURES FOR ~~BUFFER ESTABLISHMENT, MAINTENANCE, AND LONG–TERM PROTECTION AND FOR BUFFER MITIGATION ACTIVITIES ASSOCIATED WITH VIOLATIONS, VARIANCES, OR AUTHORIZED DEVELOPMENT ACTIVITIES, INCLUDING PROVISIONS TO ENSURE THE~~:

(I) BUFFER ESTABLISHMENT, MAINTENANCE, MEASUREMENT, MITIGATION, AND ENFORCEMENT;

(II) BUFFER EXEMPTION AREAS;

(III) IMPACTS OF SHORE EROSION CONTROL ACTIVITIES ON THE BUFFER;

(IV) COMMUNITY PIERS;

(V) COMMERCIAL MARINAS;

(VI) WATER DEPENDENT FACILITIES;

(VII) PUBLIC WATER ACCESS;

(VIII) THE PROTECTION AND CONSERVATION OF THE BUFFER AS A STATE WATER QUALITY AND HABITAT RESOURCE ESSENTIAL TO THE RESTORATION OF THE CHESAPEAKE AND ATLANTIC COASTAL BAYS; ~~AND~~

(IX) MAPPING THE CRITICAL AREA, WITH RESPECT TO REVISION OF THE 1,000 FOOT BOUNDARY AND VOLUNTARY ADDITIONS OF PROPERTY TO THE CRITICAL AREA;

(X) DEVELOPMENT IN THE CRITICAL AREA, WITH RESPECT TO:

1. CLEARING, GRADING, AND CONSTRUCTION ACTIVITY;

2. CLUSTERING TO PROMOTE CONSERVATION OF NATURAL SITE FEATURES;

3. FLEXIBILITY FOR REDEVELOPMENT;

4. STORMWATER MANAGEMENT;

5. APPLICATION OF THE 10% POLLUTANT REDUCTION RULE;

6. FOREST AND DEVELOPED WOODLANDS PROTECTIONS;

7. CLEARING OF NATURAL VEGETATION;

8. LOT COVERAGE STANDARDS;

9. COMMISSION REVIEW OF LOCAL PROVISIONS FOR LOT CONSOLIDATION; AND

10. THE EXCLUSION OF STATE TIDAL WETLANDS FROM CALCULATIONS OF DENSITY, FOREST AND DEVELOPED WOODLANDS PROTECTIONS, LIMITATIONS ON CLEARING NATURAL VEGETATION, AND LOT COVERAGE STANDARDS;

(XI) CONSISTENT ENFORCEMENT OF STATE AND LOCAL CRITICAL AREA LAW, WITH RESPECT TO THE ESTABLISHMENT OF MINIMUM PENALTIES AND MITIGATION REQUIREMENTS;

(XII) GROWTH ALLOCATION APPLICATIONS, WITH RESPECT TO:

1. THE DEDUCTION OF GROWTH ALLOCATION ACREAGE;

2. COMMISSION REVIEW AND DETERMINATIONS;

3. ACCOMMODATION OF VARIATIONS AMONG LOCAL JURISDICTIONS CONCERNING LAND USES IN THE RESOURCE CONSERVATION AREA THAT DO NOT REQUIRE GROWTH ALLOCATION;

4. THE LOCATION OF SEPTIC SYSTEMS;

5. GOLF COURSES; AND

6. THE COMMISSION'S EVALUATION OF A LOCAL JURISDICTION'S USE OF CLUSTER DEVELOPMENT UNDER § 8–1808.1 OF THIS SUBTITLE;

(XIII) IN CONSULTATION WITH APPROPRIATE STATE AND FEDERAL AGENCIES, THE CONSERVATION AND PROTECTION OF:

1. HABITAT PROTECTION AREAS;

2. THREATENED AND ENDANGERED SPECIES;

3. SPECIES IN NEED OF CONSERVATION;

4. FOREST INTERIOR DWELLING BIRDS;

5. ANADROMOUS FISH PROPAGATION WATERS; AND

6. PLANT AND WILDLIFE HABITAT;

(XIV) DIRECTIVES FOR LOCAL PROGRAM DEVELOPMENT AND IMPLEMENTATION, WITH RESPECT TO:

1. NOTIFICATION OF PROJECT APPLICATIONS;

2. THE 6–YEAR COMPREHENSIVE REVIEW OF A LOCAL CRITICAL AREA PROGRAM;

~~**3. PUBLIC NOTICE AND COMMENT FOR A STATE OR LOCAL GOVERNMENT DEVELOPMENT ACTIVITY;**~~

3. FOR A STATE OR LOCAL GOVERNMENT DEVELOPMENT ACTIVITY:

A. PUBLIC NOTICE, INCLUDING NOTICE TO BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA WHERE THE PROPOSED DEVELOPMENT ACTIVITY WOULD OCCUR; AND

B. AN OPPORTUNITY FOR PUBLIC COMMENT IN THE LOCAL JURISDICTION IN WHICH THE PROPOSED DEVELOPMENT ACTIVITY WOULD BE LOCATED.

4. REPORTING REQUIREMENTS;

5. THE SUBMISSION AND PROCESSING OF A PROPOSED PROGRAM AMENDMENT OR REFINEMENT; AND

6. PROVISIONS APPLICABLE TO AREAS REQUESTED FOR EXCLUSION FROM THE CRITICAL AREA;

(XV) IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, SURFACE MINING IN THE CRITICAL AREA; AND

(XVI) THE APPLICATION FOR AND PROCESSING OF A VARIANCE, WITH RESPECT TO:

1. AMENDING A VARIANCE APPLICATION;

2. ADVANCE NOTICE TO THE COMMISSION;

3. THE CONTENTS OF A COMPLETE VARIANCE APPLICATION;

4. ENSURING THAT COMMISSION RECOMMENDATIONS ARE MADE PART OF THE VARIANCE RECORD;

5. THE USE OF VARIANCE STANDARDS; AND

6. NOTICE OF A VARIANCE DECISION; AND

(2) PROVIDE FLEXIBILITY WHEREVER POSSIBLE IN ORDER TO ACCOMMODATE VARIATIONS AMONG LOCAL PROGRAMS.

(C) The members of the Commission who reside in the Atlantic Coastal Bays Watershed shall serve on any committee established under subsection (a)(4) of this section.

8–1808.

(c) (1) **(I) [**At a minimum,**] NOTWITHSTANDING ANY PROVISION IN A LOCAL LAW OR ORDINANCE, OR THE LACK OF A PROVISION IN A LOCAL LAW OR ORDINANCE, ALL OF THE REQUIREMENTS OF THIS SUBTITLE SHALL APPLY TO, AND BE APPLIED BY, A LOCAL JURISDICTION AS MINIMUM STANDARDS FOR** a program sufficient to meet the goals **[**stated in subsection (b) of this section includes**] OF THE CRITICAL AREA PROGRAM.**

(II) WITH THE APPROVAL OF THE COMMISSION, A LOCAL JURISDICTION MAY ESTABLISH PROCEDURES FOR THE GRANTING OF AN ADMINISTRATIVE VARIANCE.

(III) AT A MINIMUM, A PROGRAM SHALL CONTAIN ALL OF THE FOLLOWING ELEMENTS, INCLUDING:

[(i)**] 1.** A map designating the critical area in a local jurisdiction;

[(ii)**] 2.** A comprehensive zoning map for the critical area;

[(iii)**] 3.** As necessary, new or amended provisions of the jurisdiction's:

[1.**] A.** Subdivision regulations;

[2.**] B.** Comprehensive or master plan;

[3.**] C.** Zoning ordinances or regulations;

[4.**] D.** Provisions relating to enforcement; and

[5.**] E.** Provisions as appropriate relating to grandfathering of development at the time the program is adopted or approved by the Commission**, INCLUDING PROVISIONS FOR BRINGING LANDS INTO CONFORMANCE WITH THE PROGRAM AS REQUIRED UNDER ITEM ~~13~~ 12 OF THIS SUBPARAGRAPH**;

[(iv)**] 4.** Provisions requiring that ~~project~~**:**

A. PROJECT approvals shall be based on findings that projects are consistent with the standards stated in subsection (b) of this section**; AND ~~THAT THE~~**

B. THE COMMISSION SHALL RECEIVE WRITTEN NOTICE OF LOCAL DECISIONS ~~ON~~ REGARDING PROJECT APPROVALS ~~WITHIN 10 WORKING DAYS AFTER THE DATE OF ISSUANCE~~ OR DENIALS IN ACCORDANCE WITH LOCAL PROCEDURES APPROVED BY THE COMMISSION;

[(v)**] 5.** Provisions to limit **[**the amount of land covered by buildings, roads, parking lots, or other impervious surfaces,**] LOT COVERAGE** and to require or encourage cluster development, where necessary or appropriate;

[(vi)**] 6.** Establishment of buffer areas along shorelines within which agriculture will be permitted only if best management practices are used, provided that structures or any other use of land which is necessary for adjacent agriculture shall also be permitted in any buffer area;

[(vii)**] 7.** Requirements for minimum setbacks for structures and septic fields along shorelines, including the establishment of a minimum buffer landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands;

[(viii)**]8.** Designation of shoreline areas, if any, that are suitable for parks, hiking, biking, wildlife refuges, scenic drives, public access or assembly, and water–related recreation such as boat slips, piers, and beaches;

[(ix)**] 9.** Designation of shoreline areas, if any, that are suitable for ports, marinas, and industries that use water for transportation or derive economic benefits from shore access;

[(x)**] 10.** Provisions requiring that all harvesting of timber in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area be in accordance with plans approved by the district forestry board;

[(xi)**] 11.** ~~Provisions establishing that the controls in a program which are designed to prevent runoff of pollutants will not be required on sites where the topography prevents runoff from directly or indirectly reaching tidal waters;~~

~~**[**(xii)**] 12.**~~ Provisions for reasonable accommodations in policies or procedures when the accommodations are necessary to avoid discrimination on the basis of physical disability, including provisions that authorize a local jurisdiction to require removal of a structure that was installed or built to accommodate a physical disability and require restoration when the accommodation permitted by this paragraph is no longer necessary;

~~**13.**~~ **12. PROCEDURES, INCLUDING CONSOLIDATION OR RECONFIGURATION OF LOTS, THAT SHALL BE APPROVED BY THE COMMISSION AND ASSURE THAT THE FOLLOWING LOTS AND LANDS ARE BROUGHT INTO CONFORMANCE WITH THE PROGRAM TO THE EXTENT POSSIBLE:**

A. ~~ANY~~ IN THE CHESAPEAKE BAY CRITICAL AREA, ANY LEGAL PARCEL OF LAND, NOT BEING PART OF A RECORDED OR APPROVED SUBDIVISION, THAT WAS RECORDED AS OF DECEMBER 1, 1985; ~~AND~~

B. ~~LAND~~ IN THE CHESAPEAKE BAY CRITICAL AREA, LAND THAT WAS SUBDIVIDED INTO RECORDED LEGALLY BUILDABLE LOTS, WHERE THE SUBDIVISION RECEIVED THE LOCAL JURISDICTION'S FINAL APPROVAL BEFORE JUNE 1, 1984;

C. IN THE ATLANTIC COASTAL BAYS CRITICAL AREA, ANY LEGAL PARCEL OF LAND, NOT BEING PART OF A RECORDED OR APPROVED SUBDIVISION, THAT WAS RECORDED AS OF JUNE 1, 2002; AND

D. IN THE ATLANTIC COASTAL BAYS CRITICAL AREA, LAND THAT WAS SUBDIVIDED INTO RECORDED LEGALLY BUILDABLE LOTS, WHERE THE SUBDIVISION RECEIVED THE LOCAL JURISDICTION'S FINAL APPROVAL BEFORE JUNE 1, 2002;

[(xiii)**]** ~~**14.**~~ **13.** Except as provided in subsection (d) of this section, provisions for granting a variance to the local jurisdiction's critical area program, in accordance with regulations adopted by the Commission concerning variances set forth in COMAR 27.01.11; **[**and**]**

[(xiv)**]** ~~**15.**~~ **14.** Penalty provisions establishing that, in addition to any other penalty applicable under State or local law, ~~**a**~~ **EACH** person who violates a provision of this subtitle or of a program**, INCLUDING A CONTRACTOR, PROPERTY OWNER, OR ANY OTHER PERSON WHO COMMITTED, ASSISTED, AUTHORIZED, OR PARTICIPATED IN ~~A~~ THE VIOLATION:**

~~**A.**~~ **~~[is]~~ ~~IS~~ IS** subject to a fine not exceeding $10,000**; AND**

~~**B. MAY BE HELD JOINTLY OR SEVERALLY RESPONSIBLE FOR EACH VIOLATION; AND**~~

~~**16.**~~ **15.** ~~**IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION, ADMINISTRATIVE**~~ **ADMINISTRATIVE ENFORCEMENT PROCEDURES IN ACCORDANCE WITH DUE PROCESS PRINCIPLES, INCLUDING NOTICE AND AN OPPORTUNITY TO BE HEARD, AND ESTABLISHING THAT:**

A. EACH VIOLATION OF THIS SUBTITLE OR OF A REGULATION, RULE, ORDER, PROGRAM, OR OTHER REQUIREMENT ADOPTED UNDER THE AUTHORITY OF THIS SUBTITLE CONSTITUTES A SEPARATE OFFENSE;

B. EACH CALENDAR DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE;

C. FOR EACH OFFENSE, A PERSON SHALL BE SUBJECT TO SEPARATE FINES, ORDERS, SANCTIONS, AND OTHER PENALTIES;

D. CIVIL PENALTIES FOR CONTINUING VIOLATIONS SHALL ACCRUE WITHOUT A REQUIREMENT FOR AN ADDITIONAL ASSESSMENT, NOTICE, OR OPPORTUNITY FOR HEARING FOR EACH SEPARATE OFFENSE;

E. ON CONSIDERATION OF ALL THE FACTORS INCLUDED UNDER THIS SUBSECTION AND ANY OTHER FACTORS IN THE LOCAL JURISDICTION'S APPROVED PROGRAM, THE LOCAL ~~JURISDICTION'S CODE ENFORCEMENT PERSONNEL~~ JURISDICTION SHALL IMPOSE THE AMOUNT OF THE PENALTY; ~~AND~~

F. ~~PAYMENT OF ALL CIVIL PENALTIES AND CORRECTION OF THE VIOLATION~~ SATISFACTION OF ALL CONDITIONS SPECIFIED UNDER PARAGRAPH (4) OF THIS SUBSECTION SHALL BE A CONDITION PRECEDENT TO THE ISSUANCE OF ANY PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION FOR THE AFFECTED PROPERTY; AND

G. UNLESS AN EXTENSION OF TIME IS APPROPRIATE BECAUSE OF ADVERSE PLANTING CONDITIONS, WITHIN ~~60~~ *90* DAYS OF THE ISSUANCE OF A PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION FOR THE AFFECTED PROPERTY, ANY ADDITIONAL MITIGATION REQUIRED AS A CONDITION OF APPROVAL FOR THE PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION SHALL BE COMPLETED.

(2) **(I)** In determining the amount of the penalty to be assessed under paragraph **[**(1)(xiv)**]** ~~**(1)(II)15**~~ ~~**(1)(II)14**~~ ***(1)(III)14*** of this subsection, a local jurisdiction **[**may**]** **SHALL** consider:

~~(i)~~ **1.** The gravity of the violation;

~~(ii)~~ **2.** Any willfulness or negligence involved in the violation; **[**and**]**

~~(iii)~~ **3.** The environmental impact of the violation**; AND**

~~**(IV)**~~ **4. THE COST OF RESTORATION OF THE RESOURCE AFFECTED BY THE VIOLATION AND MITIGATION FOR DAMAGE TO THAT RESOURCE, INCLUDING THE COST TO THE STATE OR LOCAL AUTHORITIES FOR PERFORMING, SUPERVISING, OR RENDERING ASSISTANCE TO THE RESTORATION AND MITIGATION**.

(II) IN PARAGRAPH ~~(1)(II)15~~ *(1)(III)14* OF THIS SUBSECTION, "PROPERTY OWNER" INCLUDES TWO OR MORE PERSONS HOLDING TITLE TO THE PROPERTY UNDER ANY FORM OF JOINT OWNERSHIP.

(3) REGULATIONS ADOPTED UNDER PARAGRAPH ~~(1)(II)16~~ ~~(1)(II)15~~ *(1)(III)15* OF THIS SUBSECTION SHALL PROVIDE FOR THE COMMISSION'S CONSIDERATION OF ENFORCEMENT PROVISIONS SUBMITTED BY A LOCAL JURISDICTION THAT ARE AT LEAST AS EFFECTIVE AS ENFORCEMENT REQUIREMENTS UNDER THIS SUBTITLE AND REGULATIONS ADOPTED UNDER THE AUTHORITY OF THIS SUBTITLE.

(4) A LOCAL JURISDICTION MAY NOT ISSUE A PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION UNLESS THE PERSON SEEKING THE PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION HAS:

(I) FULLY PAID ALL ADMINISTRATIVE, CIVIL, AND CRIMINAL PENALTIES IMPOSED UNDER PARAGRAPH ~~(1)(III)16~~ *(1)(III)15* OF THIS SUBSECTION;

(II) PREPARED A RESTORATION OR MITIGATION PLAN, APPROVED BY THE LOCAL JURISDICTION, TO ABATE IMPACTS TO WATER QUALITY OR NATURAL RESOURCES AS A RESULT OF THE VIOLATION; AND

(III) PERFORMED THE ABATEMENT MEASURES IN THE APPROVED PLAN IN ACCORDANCE WITH THE LOCAL CRITICAL AREA PROGRAM.

(d) (1) In this subsection, "unwarranted hardship" means that, without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

(2) (i) **A LOCAL JURISDICTION SHALL PROCESS AN APPLICATION FOR A VARIANCE REGARDING A PARCEL OR LOT THAT IS SUBJECT TO A CURRENT VIOLATION OF THIS SUBTITLE, A REGULATION ADOPTED UNDER THE AUTHORITY OF THIS SUBTITLE, OR ANY PROVISION OF AN ORDER, PERMIT, PLAN, OR LOCAL PROGRAM IN ACCORDANCE WITH SUBSECTION (C)(1)(III)15 OF THIS SECTION.**

(II) In considering an application for a variance, a local jurisdiction shall presume that the specific development activity in the critical area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the local jurisdiction's program.

~~(ii)~~ **(III)** If the variance request is based on conditions or circumstances that are the result of actions by the applicant**[**, including the commencement of development activity before an application for a variance has been filed**]**, a local jurisdiction ~~may~~ **SHALL** consider that fact.

(3) (i) An applicant has the burden of proof and the burden of persuasion to overcome the presumption established under paragraph ~~(2)(i)~~ **(2)(II)** of this subsection.

(ii) 1. Based on competent and substantial evidence, a local jurisdiction shall make written findings as to whether the applicant has overcome the presumption established under paragraph (2)(i) of this subsection.

2. With due regard for the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

A. The applicant;

B. The local jurisdiction or any other government agency; or

C. Any other person deemed appropriate by the local jurisdiction.

(4) A variance to a local jurisdiction's critical area program may not be granted unless:

(i) Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of the critical area program would result in unwarranted hardship to the applicant;

(ii) The local jurisdiction finds that the applicant has satisfied each one of the variance provisions; and

(iii) Without the variance, the applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the critical area program.

(5) (I) WITHIN 10 WORKING DAYS AFTER ~~ISSUANCE~~ A WRITTEN DECISION REGARDING A VARIANCE APPLICATION IS ISSUED, THE COMMISSION SHALL RECEIVE ~~WRITTEN NOTICE~~ A COPY OF THE DECISION FROM A LOCAL JURISDICTION ~~REGARDING ITS DECISION ON EACH VARIANCE APPLICATION~~.

(II) A LOCAL JURISDICTION MAY NOT ISSUE A PERMIT FOR THE ACTIVITY THAT WAS THE SUBJECT OF THE VARIANCE APPLICATION UNTIL THE APPLICABLE 30–DAY APPEAL PERIOD HAS ELAPSED.

(6) (I) A DEVELOPMENT ACTIVITY COMMENCED WITHOUT A REQUIRED PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION IS A VIOLATION OF THIS SUBTITLE.

(II) A LOCAL JURISDICTION MAY NOT ACCEPT AN APPLICATION FOR A VARIANCE TO LEGALIZE A VIOLATION OF THIS SUBTITLE, INCLUDING AN UNPERMITTED STRUCTURE OR DEVELOPMENT ACTIVITY, UNLESS THE LOCAL JURISDICTION ~~FIRST:~~

~~1.~~ ~~ISSUES~~ FIRST ISSUES A NOTICE OF VIOLATION, INCLUDING ASSESSMENT OF AN ADMINISTRATIVE OR CIVIL PENALTY, FOR THE VIOLATION~~; AND~~

~~2. VERIFIES, THROUGH ON–SITE INSPECTION OR OTHER RELIABLE MEANS, THAT:~~

~~A. FULL COMPLIANCE WITH THE TERMS OF THE NOTICE OF VIOLATION HAS BEEN ACHIEVED, INCLUDING PAYMENT OF ALL ASSESSED FINES AND COMPLETION OF ANY REQUIRED MITIGATION; OR~~

~~B. A FINAL ADJUDICATION ON THE MERITS OF THE NOTICE OF VIOLATION HAS DETERMINED THAT A VIOLATION HAS NOT OCCURRED OR THAT THE FINAL ADJUDICATION HAS DETERMINED THAT A VIOLATION DID OCCUR AND THE PERSON HAS FULLY COMPLIED WITH THE TERMS OF THAT ADJUDICATION, INCLUDING FULL PAYMENT OF ANY PENALTIES AND COSTS THAT MAY BE ASSESSED~~.

(III) IF ~~THE~~ A FINAL ADJUDICATION OF A NOTICE OF VIOLATION RESULTS IN A DETERMINATION THAT A VIOLATION HAS OCCURRED, THE PERSON SHALL BE LIABLE FOR A PENALTY THAT IS TWICE THE AMOUNT OF THE ASSESSMENT IN THE NOTICE OF VIOLATION, IN ADDITION TO THE COST OF THE HEARING AND ANY APPLICABLE MITIGATION COSTS.

(IV) APPLICATION FOR A VARIANCE UNDER THIS PARAGRAPH CONSTITUTES A WAIVER OF THE RIGHT TO APPEAL THE TERMS OF A NOTICE OF VIOLATION AND ITS FINAL ADJUDICATION, INCLUDING THE PAYMENT OF ANY PENALTIES AND COSTS ASSESSED.

(V) IF THE LOCAL JURISDICTION FINDS THAT THE ACTIVITY OR STRUCTURE FOR WHICH A VARIANCE IS REQUESTED COMMENCED WITHOUT PERMITS OR APPROVALS AND:

1. DOES NOT MEET EACH OF THE VARIANCE CRITERIA UNDER THIS SUBSECTION, THE LOCAL JURISDICTION SHALL DENY THE REQUESTED VARIANCE AND ORDER REMOVAL OR RELOCATION OF ANY STRUCTURE AND RESTORATION OF THE AFFECTED RESOURCES; OR

2. DOES MEET EACH OF THE VARIANCE CRITERIA UNDER THIS SUBSECTION, THE LOCAL JURISDICTION MAY GRANT ~~PROPOSED~~ APPROVAL TO THE REQUESTED VARIANCE.

~~**(VI) 1. WITHIN 10 WORKING DAYS AFTER ISSUANCE OF A PROPOSED APPROVAL OF A VARIANCE UNDER SUBPARAGRAPH (V)2 OF THIS PARAGRAPH, THE LOCAL JURISDICTION SHALL SUBMIT THE PROPOSED APPROVAL TO THE COMMISSION FOR THE COMMISSION'S REVIEW AND FINAL APPROVAL.**~~

~~**2. THE COMMISSION SHALL REVIEW AND ISSUE A FINAL DECISION ON A PROPOSED LOCAL APPROVAL IN ACCORDANCE WITH PROCEDURES ESTABLISHED IN REGULATIONS ADOPTED BY THE COMMISSION.**~~

[(5)**] (7)** This subsection does not apply to building permits or activities that comply with a buffer exemption plan or buffer management plan of a local jurisdiction which has been approved by the Commission.

[(6)**] (8)** Notwithstanding any provision of a local law or ordinance, or the lack of a provision in a local law or ordinance, all of the provisions of this subsection shall apply to, and shall be applied by, a local jurisdiction in the consideration, processing, and decision on an application for a variance.

(e) (1) The Commission shall adopt by regulation on or before December 1, 1985 criteria for program development and approval, which are necessary or appropriate to achieve the standards stated in subsection (b) of this section. Prior to developing its criteria and also prior to adopting its criteria, the Commission shall hold at least 6 regional public hearings, 1 in each of the following areas:

(i) Harford, Cecil, and Kent counties;

(ii) Queen Anne's, Talbot, and Caroline counties;

(iii) Dorchester, Somerset, and Wicomico counties;

(iv) Baltimore City and Baltimore County;

(v) Charles, Calvert, and St. Mary's counties; and

(vi) Anne Arundel and Prince George's counties.

(2) During the hearing process, the Commission shall consult with each affected local jurisdiction.

(3) IN ACCORDANCE WITH ITS POWERS UNDER § 8–1806(A) OF THIS SUBTITLE, THE COMMISSION MAY AMEND THE CRITERIA FOR PROGRAM DEVELOPMENT AND APPROVAL ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

8–1808.1.

(c) (1) When locating new intensely developed or limited development areas, local jurisdictions shall use the following **[**guidelines**]** **STANDARDS**:

(i) Locate a new intensely developed area in a limited development area or adjacent to an existing intensely developed area;

(ii) Locate a new limited development area adjacent to an existing limited development area or an intensely developed area;

(iii) Locate a new limited development area or an intensely developed area in a manner that minimizes impacts to a habitat protection area as defined in COMAR 27.01.09, and in an area and manner that optimizes benefits to water quality;

(iv) Locate a new intensely developed area or a limited development area in a resource conservation area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters**, UNLESS THE LOCAL JURISDICTION PROPOSES, AND THE COMMISSION APPROVES, ALTERNATIVE MEASURES FOR ENHANCEMENT OF WATER QUALITY AND HABITAT THAT PROVIDE GREATER BENEFITS TO THE RESOURCES;**

(V) LOCATE NEW INTENSELY DEVELOPED AREAS AND LIMITED DEVELOPMENT AREAS IN A MANNER THAT MINIMIZES THEIR IMPACTS TO THE DEFINED LAND USES OF THE RESOURCE CONSERVATION AREA;

[(v)**] (VI)** Except as provided in item **[**(vii)**] (VIII)** of this paragraph, no more than one–half of the expansion allocated in the criteria of the Commission may be located in resource conservation areas;

[(vi)**] (VII)** New intensely developed or limited development areas **[**to be located in the resource conservation area**]** **INVOLVING THE USE OF GROWTH ALLOCATION** shall conform to all criteria of the Commission and shall be designated on the comprehensive zoning map submitted by the local jurisdiction as part of its application to the Commission for program approval or at a later date in compliance with § 8–1809(g) of this subtitle; and

[(vii)**] (VIII)** In Calvert, Caroline, Cecil, Charles, Dorchester, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, if the county is unable to utilize a portion of the growth allocated to the county in items (i) and (ii) of this paragraph within or adjacent to existing intensely developed or limited development areas as demonstrated in the local plan approved by the Commission, then that portion of the allocated expansion which cannot be so located may be located in the resource conservation area in addition to the expansion allocated in item **[**(v)**] (VI)** of this paragraph. A developer shall be required to cluster any development in an area of expansion authorized under this paragraph.

(2) A LOCAL JURISDICTION MAY USE A STANDARD THAT VARIES FROM THE STANDARDS REQUIRED UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION IF:

(I) THE ALTERNATIVE STANDARD IS CONSISTENT WITH THE JURISDICTION'S ADOPTED COMPREHENSIVE PLAN; AND

(II) THE COMMISSION HAS APPROVED THE ALTERNATIVE STANDARD AS PART OF THE LOCAL PROGRAM.

(3) IN REVIEWING MAP AMENDMENTS OR REFINEMENTS INVOLVING THE USE OF GROWTH ALLOCATION, THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTORS:

(I) CONSISTENCY WITH THE JURISDICTION'S ADOPTED COMPREHENSIVE PLAN AND WHETHER THE GROWTH ALLOCATION WOULD IMPLEMENT THE GOALS AND OBJECTIVES OF THE ADOPTED PLAN;

(II) ~~CONSISTENCY WITH SMART GROWTH PRINCIPLES UNDER TITLE 5, SUBTITLES 7A AND 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND OTHER STATE GROWTH POLICIES, INCLUDING:~~

~~1. CERTIFIED PRIORITY FUNDING AREAS UNDER § 5–7B–08 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND~~

~~2. MAXIMIZATION OF STATE INVESTMENT IN EXISTING PUBLIC INFRASTRUCTURE~~

1. FOR A MAP AMENDMENT OR REFINEMENT INVOLVING A NEW INTENSELY DEVELOPED AREA, WHETHER THE DEVELOPMENT IS:

A. TO BE SERVED BY A PUBLIC WASTEWATER SYSTEM;

B. TO HAVE AN ALLOWED AVERAGE DENSITY OF AT LEAST 3.5 UNITS PER ACRE, AS CALCULATED UNDER § 5–7B–03(H) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; ~~AND~~

C. FOR A NEW INTENSELY DEVELOPED AREA THAT IS GREATER THAN 20 ACRES, TO BE LOCATED IN A PRIORITY FUNDING AREA, AS DESCRIBED UNDER §§ 5–7B–02(1) AND 5–7B–03 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

D. TO HAVE A DEMONSTRABLE ECONOMIC BENEFIT TO THE AREA; AND

2. FOR A MAP AMENDMENT OR REFINEMENT INVOLVING A NEW LIMITED DEVELOPMENT AREA, WHETHER THE DEVELOPMENT IS:

A. TO BE SERVED BY A PUBLIC WASTEWATER SYSTEM OR SEPTIC SYSTEM THAT USES THE BEST AVAILABLE NITROGEN REMOVAL TECHNOLOGY;

B. A COMPLETION OF AN EXISTING SUBDIVISION;

C. AN EXPANSION OF AN EXISTING BUSINESS; OR

D. TO BE CLUSTERED;

(III) THE USE OF EXISTING PUBLIC INFRASTRUCTURE, WHERE PRACTICAL;

(IV) CONSISTENCY WITH STATE AND REGIONAL ENVIRONMENTAL PROTECTION POLICIES ~~AND MEASURES, INCLUDING THOSE THAT PROTECT~~ CONCERNING THE PROTECTION OF THREATENED AND

ENDANGERED SPECIES AND SPECIES IN NEED OF CONSERVATION THAT MAY BE LOCATED ON– OR OFF–SITE;

~~**(IV) LOCATION IN OR NEAR**~~

(V) IMPACTS ON A PRIORITY PRESERVATION AREA, AS DEFINED UNDER § 2–518 OF THE AGRICULTURE ARTICLE;

~~**(V) ENVIRONMENTAL IMPACTS ASSOCIATED WITH TREATMENT OF WASTE;**~~

(VI) ENVIRONMENTAL IMPACTS ASSOCIATED WITH WASTEWATER AND STORMWATER MANAGEMENT PRACTICES AND WASTEWATER AND STORMWATER DISCHARGES TO TIDAL WATERS, TIDAL WETLANDS, AND TRIBUTARY STREAMS; AND

(VII) ENVIRONMENTAL IMPACTS ASSOCIATED WITH LOCATION IN A COASTAL HAZARD AREA OR AN INCREASED RISK OF SEVERE FLOODING ATTRIBUTABLE TO THE PROPOSED ~~DEVELOPMENT; AND~~

~~**(VIII) THE OVERALL SUITABILITY OF THE PROJECT SITE FOR MORE INTENSE DEVELOPMENT IN A REGIONAL CONTEXT**~~ **DEVELOPMENT.**

[(2)**]** ~~**(3)**~~ **(4)** The Commission shall ensure that the **[**guidelines**]** **STANDARDS AND FACTORS** in **[**paragraph (1)**]** **PARAGRAPHS (1)** ~~**AND (2),**~~ **(2), AND (3)** of this subsection have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of this subtitle, and all criteria of the Commission.

(e) (2) (i) Within a resource conservation area, a local jurisdiction may consider one additional dwelling unit per lot or parcel as part of a primary dwelling unit for the purpose of the density calculation under this subsection if the additional dwelling unit:

1. A. Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit;

B. Does not exceed 900 square feet in total enclosed area; and

C. Is served by the same sewage disposal system as the primary dwelling unit; or

2. A. Is located within the primary dwelling unit;

B. By its construction, does not increase the amount of **[**impervious surface**]** **LOT COVERAGE** already attributed to the primary dwelling unit; and

C. Is served by the same sewage disposal system as the primary dwelling unit.

8–1808.3.

(a) **(1)** This section applies notwithstanding:

~~(1)~~ **(I)** Any other provision of this subtitle; or

~~(2)~~ **(II)** Any criteria or guideline of the Commission adopted under this subtitle.

(2) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT A CREDIT APPLICABLE TO A STORMWATER MANAGEMENT PRACTICE THAT IS APPROVED BY THE DEPARTMENT OF THE ENVIRONMENT.

(b) ~~(1)~~ **LOT COVERAGE IN THE BUFFER MAY NOT EXCEED THE MINIMUM AMOUNT NECESSARY FOR WATER–DEPENDENT FACILITIES, REGARDLESS OF THE CRITICAL AREA CLASSIFICATION OR THE SIZE OF THE PARCEL OR LOT, EXCEPT:**

(1) FOR A BUFFER EXEMPTION AREA, AS MAPPED OR ESTABLISHED UNDER AN APPROVED LOCAL PROGRAM;

(2) FOR A VARIANCE GRANTED IN ACCORDANCE WITH THIS SUBTITLE; OR

(3) AS PROVIDED IN A WATERFRONT REVITALIZATION AREA OR A WATERFRONT INDUSTRIAL AREA UNDER A LOCAL PROGRAM.

(C) This section controls over any other requirement concerning **[**impervious surfaces**]** **LOT COVERAGE** limitations in limited development areas and resource conservation areas in the critical area.

~~(2) (I) IN THE BUFFER, LOT COVERAGE MAY NOT EXCEED THE MINIMUM AMOUNT NECESSARY FOR WATER–DEPENDENT FACILITIES.~~

~~**(II) 1. THE PROVISIONS OF THIS SUBPARAGRAPH DO NOT APPLY TO BUFFER EXEMPTION AREAS, AS ESTABLISHED UNDER AN APPROVED LOCAL PROGRAM.**~~

~~**2. EXCEPT BY VARIANCE GRANTED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE, NEW NONWATER–DEPENDENT LOT COVERAGE MAY NOT OCCUR IN THE BUFFER, REGARDLESS OF THE CRITICAL AREA CLASSIFICATION OR THE SIZE OF THE PARCEL OR LOT.**~~

~~(e) On or before December 31, 1996, a local jurisdiction shall amend its local critical area protection program to meet the provisions of this section.~~

(d) (1) Except as otherwise provided in this subsection for stormwater runoff, **[**man–made impervious surfaces are**]** **LOT COVERAGE IS** limited to 15% of a parcel or lot.

(2) If a parcel or lot one–half acre or less in size existed on or before December 1, 1985 in the Chesapeake Bay Critical Area or on or before June 1, 2002 in the Atlantic Coastal Bays Critical Area, then **[**man–made impervious surfaces are**]** **LOT COVERAGE IS** limited to 25% of the parcel or lot.

(3) If a parcel or lot greater than one–half acre and less than one acre in size existed on or before December 1, 1985 in the Chesapeake Bay Critical Area or on or before June 1, 2002 in the Atlantic Coastal Bays Critical Area, then **[**man–made impervious surfaces are**]** **LOT COVERAGE IS** limited to 15% of the parcel or lot.

(4) ~~If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985 in the Chesapeake Bay Critical Area or after June 1, 2002 in the Atlantic Coastal Bays Critical Area, then **[**man–made impervious surfaces of the lot**]** **LOT COVERAGE** may not exceed 25% of the lot. However, the total **[**of the impervious surfaces**]** **LOT COVERAGE** over the entire subdivision may not exceed 15%~~ **UNLESS OTHERWISE RESTRICTED BY A LOCAL JURISDICTION, LOT COVERAGE IN A SUBDIVISION APPROVED AFTER DECEMBER 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR AFTER JUNE 1, 2002 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA MAY NOT EXCEED 15%. HOWEVER, THE TOTAL LOT COVERAGE ON AN INDIVIDUAL LOT ONE ACRE OR LESS IN SIZE MAY EXCEED 15%**.

(e) This section does not apply to a trailer park that was in residential use on or before December 1, 1985 in the Chesapeake Bay Critical Area or on or before June 1, 2002 in the Atlantic Coastal Bays Critical Area.

(f) A local jurisdiction may allow a property owner to exceed the **[**impervious surface**]** **LOT COVERAGE** limits provided in subsection (d)(2) and (3) of this section if the following conditions exist:

(1) **[**New impervious surfaces**] LOT COVERAGE ASSOCIATED WITH NEW DEVELOPMENT ACTIVITIES** on the property **[**have**] HAS** been minimized;

(2) For a lot or parcel one–half acre or less in size, total **[**impervious surfaces do**] LOT COVERAGE DOES** not exceed **[**impervious surface**] LOT COVERAGE** limits in subsection (d)(2) of this section by more than 25% or 500 square feet, whichever is greater;

(3) For a lot or parcel greater than one–half acre and less than one acre in size, total **[**impervious surfaces do**] LOT COVERAGE DOES** not exceed **[**impervious surface**] LOT COVERAGE** limits in subsection (d)(3) of this section or 5,445 square feet, whichever is greater;

(4) Water quality impacts associated with runoff from **[**the**]** new **[**impervious surfaces**] DEVELOPMENT ACTIVITIES~~, INCLUDING CLEARING AND GRADING ACTIVITIES,~~ THAT CONTRIBUTE TO LOT COVERAGE** can be and have been minimized through site design considerations or use of best management practices approved by the local jurisdiction to improve water quality; and

(5) The property owner performs on–site mitigation as required by the local jurisdiction to offset potential adverse water quality impacts from the new **[**impervious surfaces**] DEVELOPMENT ACTIVITIES THAT CONTRIBUTE TO LOT COVERAGE**, or the property owner pays a fee to the local jurisdiction in lieu of performing the on–site mitigation.

(g) All fees collected by a local jurisdiction under subsection (f)(5) of this section must be used to fund projects that improve water quality within the critical area consistent with the jurisdiction's local critical area protection program.

(h) **(1) IN THIS SUBSECTION, "LEGALLY DEVELOPED" MEANS THAT ALL PHYSICAL IMPROVEMENTS TO A PROPERTY:**

(I) EXISTED BEFORE COMMISSION APPROVAL OF A LOCAL PROGRAM; OR

(II) WERE PROPERLY PERMITTED IN ACCORDANCE WITH THE LOCAL PROGRAM AND <u>IMPERVIOUS SURFACE</u> POLICIES IN EFFECT AT THE TIME OF CONSTRUCTION.

(2) (I) A LOT OR PARCEL LEGALLY DEVELOPED ~~IN ACCORDANCE WITH A LOCAL PROGRAM'S APPLICABLE IMPERVIOUS SURFACE LIMITATIONS~~ AS OF ~~JUNE 30~~ <u>JULY 1</u>, 2008 MAY BE CONSIDERED LEGALLY NONCONFORMING FOR PURPOSES OF LOT COVERAGE REQUIREMENTS.

(II) FOR THE PURPOSE OF INCREASING LOT COVERAGE ON A LOT OR PARCEL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE LOT COVERAGE LIMITATIONS UNDER THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO A DEVELOPMENT ACTIVITY FOR WHICH:

1. ~~PROJECT APPROVAL OR A~~ A BUILDING PERMIT WAS ISSUED BEFORE ~~JUNE 30~~ JULY 1, 2008; AND

2. CONSTRUCTION WAS INITIATED AND AN INSPECTION WAS PERFORMED ~~BY JUNE 30~~ BEFORE JULY 1, 2009.

(I) A local jurisdiction may grant a variance from the provisions of this section in accordance with **THE PROVISIONS OF THIS SUBTITLE,** regulations adopted by the Commission concerning variances as part of local program development set forth in **[**COMAR 27.01.11**]** **COMAR 27.01.11,** and notification of project applications set forth in COMAR 27.03.01.

8–1808.10.

~~**(A) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, THE PROVISIONS OF THIS SECTION APPLY TO:**~~

~~**(1) AN APPLICATION FOR SUBDIVISION WITHIN THE RESOURCE CONSERVATION AREA THAT RECEIVES FINAL LOCAL APPROVAL AFTER JUNE 30, 2008; AND**~~

~~**(2) DEVELOPMENT WITHIN A NEWLY DESIGNATED INTENSELY DEVELOPED AREA OR LIMITED DEVELOPMENT AREA THAT IS AWARDED GROWTH ALLOCATION BY A LOCAL GOVERNMENT AFTER JUNE 30, 2008.**~~

~~**(B) (1) THE MINIMUM BUFFER AS DEFINED AND ESTABLISHED UNDER COMAR 27.01.09.01 SHALL BE 300 FEET IN A RESOURCE CONSERVATION AREA.**~~

~~**(2) ALL PROVISIONS APPLICABLE TO DEVELOPMENT ACTIVITIES WITHIN THE 100–FOOT BUFFER, INCLUDING THE ESTABLISHMENT OF VEGETATION AND EXPANSION REQUIREMENTS, SHALL APPLY TO THE 300–FOOT BUFFER.**~~

~~**(C) (1) THE 300–FOOT BUFFER MAY BE REDUCED IF:**~~

~~(I) THE STRICT APPLICATION OF THE MINIMUM 300–FOOT BUFFER WOULD PRECLUDE THE SUBDIVISION OF THE PROPERTY AT A DENSITY OF ONE DWELLING UNIT PER 20 ACRES; AND~~

~~(II) ALL OTHER LOCAL ZONING AND SUBDIVISION REQUIREMENTS WILL BE SATISFIED.~~

~~(2) A REDUCTION IN THE BUFFER AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT RESULT IN A BUFFER THAT IS LESS THAN THE MINIMUM BUFFER REQUIRED BY THE LOCAL PROGRAM.~~

(A) THIS SECTION APPLIES TO AN APPLICATION FOR SUBDIVISION OR SITE PLAN APPROVAL WITHIN THE RESOURCE CONSERVATION AREA THAT:

(1) RECEIVES FINAL LOCAL APPROVAL ON OR AFTER JULY 1, 2008, UNLESS AN APPLICATION FOR SUBDIVISION OR SITE PLAN APPROVAL IS SUBMITTED BEFORE JULY 1, 2008 AND LEGALLY RECORDED BY ~~DECEMBER 31, 2009~~ *JULY 1, 2010*; AND

(2) DOES NOT INVOLVE THE USE OF GROWTH ALLOCATION.

(B) (1) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, THE MINIMUM BUFFER SHALL BE:

(I) ~~300~~ *200* FEET FROM TIDAL WATERS OR A TIDAL WETLAND; AND

(II) 100 FEET FROM A TRIBUTARY STREAM.

(2) ALL PROVISIONS UNDER COMAR 27.01.09.01 THAT ARE APPLICABLE TO DEVELOPMENT ACTIVITIES WITHIN THE 100–FOOT BUFFER, INCLUDING THE ESTABLISHMENT OF VEGETATION AND EXPANSION REQUIREMENTS, SHALL APPLY TO THE ~~300–FOOT~~ *200–FOOT* BUFFER.

(C) THE ~~300–FOOT~~ *200–FOOT* BUFFER MAY BE REDUCED IF:

(1) THE STRICT APPLICATION OF THE MINIMUM ~~300–FOOT~~ *200–FOOT* BUFFER WOULD PRECLUDE:

(I) SUBDIVISION OF THE PROPERTY AT A DENSITY OF ONE DWELLING UNIT PER 20 ACRES, AND ALL OTHER STATE AND LOCAL REQUIREMENTS WILL BE SATISFIED; OR

(II) AN INTRA–FAMILY TRANSFER AUTHORIZED UNDER § 8–1808.2 OF THIS SUBTITLE; AND

(2) THE REDUCTION WILL OCCUR IN ACCORDANCE WITH LOCAL PROGRAM PROCEDURES APPROVED BY THE COMMISSION.

8–1808.11.

(A) ~~IMPROVEMENTS~~ *OTHER THAN IN AREAS DESIGNATED BY THE DEPARTMENT OF THE ENVIRONMENT MAPPING AS APPROPRIATE FOR STRUCTURAL SHORELINE STABILIZATION MEASURES, IMPROVEMENTS* TO PROTECT A PERSON'S PROPERTY AGAINST EROSION SHALL CONSIST OF NONSTRUCTURAL SHORELINE STABILIZATION MEASURES THAT PRESERVE THE NATURAL ENVIRONMENT, SUCH AS MARSH CREATION, EXCEPT IN AREAS WHERE THE PERSON CAN DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT OF *THE* ENVIRONMENT THAT THESE MEASURES ARE NOT FEASIBLE, INCLUDING AREAS OF EXCESSIVE EROSION, AREAS SUBJECT TO HEAVY TIDES, AND AREAS TOO NARROW FOR EFFECTIVE USE OF NONSTRUCTURAL SHORELINE STABILIZATION MEASURES.

(B) (1) IN CONSULTATION WITH THE DEPARTMENT, THE DEPARTMENT OF THE ENVIRONMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.

(2) THE REGULATIONS SHALL INCLUDE A WAIVER PROCESS THAT EXEMPTS A PERSON FROM THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION ON A DEMONSTRATION TO THE SATISFACTION OF THE DEPARTMENT OF THE ENVIRONMENT THAT NONSTRUCTURAL SHORELINE STABILIZATION MEASURES ARE NOT FEASIBLE FOR THE PERSON'S PROPERTY.

8–1809.

~~(h) (1) As often as necessary but not more than 4 times per calendar year, each local jurisdiction may propose program amendments and program refinements to its adopted program.~~

~~(2) (i) **1.** Except for program amendments or program refinements developed during program review under subsection (g) of this section, a **[**zoning**] CRITICAL AREA** map amendment may be **[**granted**] PROPOSED TO THE CRITICAL AREA COMMISSION** by a local **[**approving authority**] JURISDICTION** only on proof of a mistake in the existing **[**zoning**] CRITICAL AREA CLASSIFICATION.~~

~~**2. THE COMMISSION SHALL:**~~

~~**A. CONSIDER THE LOCAL JURISDICTION'S DETERMINATION OF MISTAKE IN THE EXISTING CRITICAL AREA CLASSIFICATION; AND**~~

~~**B. DETERMINE WHETHER THAT PROPOSED CORRECTION OF MISTAKE IS CONSISTENT WITH THE PURPOSES, POLICIES, GOALS, AND PROVISIONS OF THIS SUBTITLE AND ALL CRITERIA OF THE COMMISSION.**~~

~~(ii) The requirement in [paragraph (2)(i) of this subsection] SUBPARAGRAPH (I) OF THIS PARAGRAPH that a [zoning] CRITICAL AREA map amendment may be granted only on proof of a mistake does not apply to proposed changes to a [zoning] CRITICAL AREA map that:~~

~~1. Are wholly consistent with the land classifications in the adopted program; or~~

~~2. Propose the use of a part of the remaining growth allocation in accordance with the adopted program.~~

(o) (1) For proposed program amendments, a Commission panel shall hold a public hearing in the local jurisdiction, and the Commission shall act on the proposed program amendment within **[**90**]** **130** days of the Commission's acceptance of the proposal. If action by the Commission is not taken within **[**90**]** **130** days, the proposed program amendment is deemed approved.

8–1811.

(b) (2) From the date designated by the Commission in approving or adopting a program, an applicant for project approval or the local agency authorized to grant project approval on an application in any of the identified classes shall send to the Commission in accordance with the regulations and any other instructions of the Commission, a copy of every pending or new application for approval that is in any of the identified classes. Before the close of the **[**next**]** **FIFTH** business day after receipt of a copy of an application from the applicant or the local approving authority, the Commission shall send written notice of receipt to the applicant and to the local approving authority. A failure of the Commission to send a timely notice shall render paragraph (3) of this subsection inapplicable as to that application.

8–1815.

(a) (1) **(I)** ~~**A**~~ **EXCEPT AS OTHERWISE AUTHORIZED IN A LOCAL JURISDICTION, IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN**

SUBPARAGRAPH (II) OF THIS PARAGRAPH, A LOCAL AUTHORITY MAY OBTAIN ACCESS TO AND ENTER A PROPERTY IN ORDER TO IDENTIFY OR VERIFY A SUSPECTED VIOLATION, RESTRAIN A DEVELOPMENT ACTIVITY, OR ISSUE A CITATION IF THE LOCAL AUTHORITY HAS ~~REASONABLE~~ *PROBABLE* CAUSE TO BELIEVE THAT A VIOLATION OF THIS SUBTITLE OR THE LOCAL PROGRAM HAS OCCURRED, IS OCCURRING, OR WILL OCCUR.

(II) 1. A LOCAL AUTHORITY SHALL MAKE A REASONABLE EFFORT TO CONTACT A PROPERTY OWNER BEFORE OBTAINING ACCESS TO OR ENTERING THE PROPERTY~~, BUT FAILURE TO CONTACT THE OWNER MAY NOT PREVENT THE LOCAL AUTHORITY FROM OBTAINING ACCESS TO OR ENTERING THE PROPERTY TO PURSUE ENFORCEMENT ACTION~~.

2. IF ENTRY IS DENIED, THE LOCAL AUTHORITY MAY SEEK AN INJUNCTION TO ENTER THE PROPERTY TO PURSUE AN ENFORCEMENT ACTION.

(III) 1. A LOCAL AUTHORITY THAT IDENTIFIES A VIOLATION OF THIS SUBTITLE OR OF THE LOCAL PROGRAM SHALL TAKE ENFORCEMENT ACTION.

2. THE LOCAL AUTHORITY SHALL REQUIRE APPROPRIATE RESTORATION AND MITIGATION AS NECESSARY TO OFFSET ADVERSE IMPACTS TO THE CRITICAL AREA RESULTING FROM THE VIOLATION.

3. A. FOR RESTORATION OR MITIGATION THAT EXCEEDS 1,000 SQUARE FEET OR INVOLVES EXPENSES EXCEEDING $1,000, THE LOCAL AUTHORITY SHALL COLLECT A BOND OR OTHER FINANCIAL SECURITY OR ADOPT APPROPRIATE PROCEDURES TO ENSURE THAT THE RESTORATION OR MITIGATION IS PROPERLY COMPLETED.

B. IF THE RESTORATION OR MITIGATION INVOLVES PLANTING, THE BOND SHALL BE HELD FOR AT LEAST 2 YEARS AFTER THE DATE THE PLANTINGS WERE INSTALLED TO ENSURE PLANT SURVIVAL.

C. ON REQUEST OF THE PROPERTY OWNER, THE LOCAL AUTHORITY SHALL SCHEDULE INSPECTIONS AS NECESSARY TO ENSURE COMPLIANCE AND THE RETURN OF THE BOND OR OTHER FINANCIAL SECURITY.

(2) (I) [Violators of the provisions of programs approved or adopted by the Commission**] A PERSON WHO VIOLATES A PROVISION OF AN ORDER, PERMIT, PLAN, LOCAL PROGRAM, THIS SUBTITLE, OR REGULATIONS ADOPTED,**

APPROVED, OR ISSUED UNDER THE AUTHORITY OF THIS SUBTITLE shall be ~~subject~~**:**

1. SUBJECT to prosecution or suit **IN CIRCUIT COURT OR DISTRICT COURT** by **THE CHAIRMAN OR** local authorities, who may invoke the sanctions and remedies afforded by State or local law**;**

2. GUILTY OF A MISDEMEANOR; AND

3. ON CONVICTION IN A COURT OF COMPETENT JURISDICTION, SUBJECT TO A FINE NOT EXCEEDING $10,000 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH, WITH COSTS IMPOSED IN THE DISCRETION OF THE COURT.

(II) A CRIMINAL PROSECUTION OR A SUIT FOR A CIVIL PENALTY FOR VIOLATION OF A PROVISION OF AN ORDER, PERMIT, PLAN, LOCAL PROGRAM, THIS SUBTITLE, OR REGULATIONS ADOPTED, APPROVED, OR ISSUED UNDER THE AUTHORITY OF THIS SUBTITLE SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE COMMISSION OR THE LOCAL AUTHORITIES IN FACT KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE VIOLATION.

[(2)**] (3)** A local authority may request:

(i) Assistance from the Commission in an enforcement action; or

(ii) That the chairman refer an enforcement action to the Attorney General.

8–1815.1.

(b) If a person cuts or clears or plans to cut or clear trees within the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in violation of an approved local critical area program or of regulations adopted by the Commission, **THE CHAIRMAN MAY BRING AN ACTION, OR** the local jurisdiction may bring an action or request that the chairman of the Commission refer the matter to the Attorney General to bring an action:

(1) To require the person to replant trees where the cutting or clearing occurred in accordance with a plan prepared by the State Forester, a registered professional forester, or a registered landscape architect;

(2) To restrain the planned violation; or

(3) For damages:

(i) To be assessed by a circuit court in an amount equal to the estimated cost of replanting trees; and

(ii) To be paid to the Department by the person found to have violated the provisions of this subsection.

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

Article – Natural Resources

8–1807.

(a) The initial planning area for determination of the Chesapeake Bay Critical Area consists of **THE FOLLOWING AREAS, AS INDICATED ON THE STATEWIDE BASE MAP**:

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide ~~as indicated on the "MD iMAP" State [wetlands maps] BASE MAP, and all~~;

(2) **ALL** State and private wetlands designated under Title 16 of the Environment Article; and

~~(2)~~ **(3)** All land and water areas within 1,000 feet beyond the landward boundaries of ~~State or private wetlands and the heads of tides designated under Title 16 of the Environment Article~~ **THE RESOURCES IDENTIFIED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION**.

(b) The initial planning area for determination of the Atlantic Coastal Bays Critical Area consists of **THE FOLLOWING AREAS, AS INDICATED ON THE STATEWIDE BASE MAP**:

(1) All waters of and lands under the coastal bays and their tributaries to the head of tide ~~as indicated on the "MD iMAP" State [wetlands maps] BASE MAP, and all~~;

(2) **ALL** State and private wetlands designated under Title 16 of the Environment Article; and

~~(2)~~ **(3)** All land and water areas within 1,000 feet beyond the landward boundaries of ~~State or private wetlands and the heads of tides designated under Title~~

~~16 of the Environment Article~~ **THE RESOURCES IDENTIFIED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION**.

SECTION 3. AND BE IT FURTHER ENACTED, That the process of transition from reliance on the State wetlands maps to the Statewide Base Map for determination of the Chesapeake and Atlantic Coastal Bays Critical Area, as enacted under Section 2 of this Act, shall proceed as follows:

(1) The Department of Natural Resources ~~shall prepare a State Base Map that includes a State determined shoreline and edge of tidal wetlands and a digitally generated 1,000–foot Critical Area Boundary overlaid on aerial imagery obtained in 2007 and 2008 as part of the "MD iMap" State Base Map project. Within 30 days of the date of official completion of the "MD iMap" State Base Map project, which shall include distribution of the Base Map by the Department of Natural Resources to each local jurisdiction with an approved Critical Area program, the Department shall notify the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays in writing regarding the applicable date of project completion.~~

~~(2) Following receipt of notice from the Department, and where practical as part of the required 6–year comprehensive review process, the Commission shall notify each local jurisdiction with an approved Critical Area program in writing regarding the effective date of project completion and the requirement to adopt an amended Critical Area Map based on the "MD iMap" State Base Map project within 24 months.~~

~~(3) In accordance with notification from the Commission, each local jurisdiction, with assistance from the Critical Area Commission and the Department of Natural Resources as appropriate, shall review and refine the "MD iMap" State Base Maps prepared by the Department of Natural Resources. This process will be used to:~~

~~(i) verify the boundaries of the existing Critical Area designations;~~

~~(ii) appropriately designate unclassified areas that were not within the original Critical Area boundary in accordance with the mapping standards set forth in COMAR 27.01.02.03 through 27.01.02.05 and as further determined through regulations developed by the Commission; and~~

~~(iii) identify areas where there appear to be inconsistencies between the "MD iMap" State Base Maps and local Critical Area Maps.~~

~~(4) Following resolution of any inconsistencies and as appropriate to its form of government and in conformance with all applicable requirements, each jurisdiction with an approved Critical Area program shall formally amend its program~~

~~by adopting the "MD iMap" State Base Map for that jurisdiction, including shoreline and edge of tidal wetlands, the 1,000–foot Critical Area Boundary, and all applicable Critical Area designations.~~

~~(5) In accordance with regulations adopted by the Critical Area Commission in coordination with the Department of Natural Resources:~~

~~(i) the State Base Map, including the State–determined shoreline and edge of tidal wetlands and a digitally generated 1,000–foot Critical Area boundary, shall be periodically updated, at least once every 12 years, starting with the date specified under paragraph (1) of this section; and~~

~~(ii) as part of the required 6–year comprehensive review of the local Critical Area program, each local government shall formally amend its Critical Area Maps to reflect the State–determined shoreline and edge of tidal wetlands and a digitally generated 1,000–foot Critical Area boundary as shown on the current "MD iMap" State Base Map in effect at that time~~, the Department of the Environment, and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays shall:

(i) By October 1, 2008, complete a pilot project to develop and implement an appropriate mapping methodology for at least two counties with approved local Critical Area programs; and

(ii) Based on this pilot project, develop procedures, source documents, and joint regulations as necessary and appropriate to most accurately and effectively create new maps of the Critical Area, based on the Statewide Base Map, for the State and each affected local jurisdiction;

(2) In accordance with the following requirements and conditions, the Department of Natural Resources shall prepare a Statewide Base Map that includes a State–determined shoreline and landward boundary of tidal wetlands and a digitally generated, georeferenced 1,000–foot Critical Area boundary, as appropriate for integration into a Geographic Information System:

(i) Aerial imagery obtained in 2007 and 2008 or the best available imagery of comparable scale shall be used to identify the shoreline and landward boundary of tidal wetlands as part of the Statewide Base Map project;

(ii) The boundary shall be accurate to a scale of 1:1200; and

(iii) The mapped shoreline and landward boundary of tidal wetlands may not be construed to represent an official wetland delineation or to change in any way any statutory provision under Title 16 of the Environment Article, any regulatory provision under Title 26, Subtitle 24 of the Code of Maryland

Regulations, or any other provision related to a project–specific wetland delineation that may be necessary and appropriate;

(3) Within 4 months of the date of official completion of the Statewide Base Map project, the Department of Natural Resources shall:

(i) Distribute the appropriate portion of the Statewide Base Map to each local jurisdiction with an approved Critical Area Program; and

(ii) Notify the Critical Area Commission in writing regarding the distribution date applicable to each local jurisdiction;

(4) Following receipt of notice from the Department of Natural Resources and in accordance with the following conditions, the Commission shall notify each local jurisdiction in writing regarding the effective date of project completion applicable to that jurisdiction:

(i) A local jurisdiction shall formally adopt its amended Critical Area Map based on the Statewide Base Map within 24 months of its receipt from the Department of Natural Resources; and

(ii) However, where practicable, and after submission by the local jurisdiction of evidence satisfactory to the Commission that reasonable progress has been made toward formal adoption of its amended map, the Commission may authorize the local jurisdiction to proceed toward formal adoption of its amended map in coordination with its required 6–year comprehensive review process;

(5) In accordance with notification from the Commission, each local jurisdiction, with assistance from the Department of Natural Resources, the Department of the Environment, and the Critical Area Commission, as appropriate, shall review and refine its portion of the Statewide Base Map prepared by the Department of Natural Resources and proceed to:

(i) Verify the boundaries of the existing Critical Area designations;

(ii) Appropriately designate unclassified areas that were not within the original Critical Area boundary in accordance with the mapping standards set forth under COMAR 27.01.02.03 through 27.01.02.05 and as further determined through regulations adopted by the Commission; and

(iii) Identify areas where there appear to be inconsistencies between the Statewide Base Map and the local jurisdiction's Critical Area map;

(6) In accordance with regulations adopted by the Critical Area Commission, each local jurisdiction shall provide public notice of changes anticipated in that jurisdiction as a result of the transition from the State wetlands maps to the Statewide Base Map and provide for a public hearing and public comment regarding those changes;

(7) Following resolution of any inconsistencies and as appropriate to its form of local government and in conformance with all applicable requirements, each jurisdiction with an approved Critical Area Program shall:

(i) Formally amend its program by adopting the Statewide Base Map for that jurisdiction, including the shoreline and landward boundary of tidal wetlands, the digitally generated and georeferenced 1,000–foot Critical Area boundary, and all applicable Critical Area designations as its official Critical Area Map; and

(ii) Within 90 days of formally amending its program under item (i) of this paragraph, provide the Critical Area Commission with a list of the development projects or activities within that jurisdiction that were newly mapped under this Act as within the critical area and that received growth allocation, final subdivision approval, final site plan approval, any other final approval, or were vested by December 31, 2008;

(8) Upon official adoption of its new Critical Area Map, each local jurisdiction shall ensure that, where applicable, each project submittal utilizes the digitally generated, georeferenced Critical Area boundary; and

(9) (i) The Department of Natural Resources shall adopt regulations providing for the periodic review and updating, at least once every 12 years, of the Statewide Base Map, including the State–determined shoreline and landward boundary of tidal wetlands and a digitally generated, georeferenced 1,000–foot Critical Area boundary, beginning with the date of initial preparation and official completion under paragraph (2) of this section; and

(ii) In coordination with the regulations adopted under subparagraph (i) of this paragraph, the Critical Area Commission shall adopt regulations providing for the periodic review and formal update of a local jurisdiction's Critical Area Map, in accordance with each jurisdiction's required 6–year comprehensive review, in order to reflect the State–determined shoreline and landward boundary of tidal wetlands and the digitally generated, georeferenced 1,000–foot Critical Area boundary shown on the Statewide Base Map in effect at the time of the comprehensive review.

SECTION 4. AND BE IT FURTHER ENACTED, That ~~the~~:

(1) The Department of Natural Resources shall notify the Department of Legislative Services in writing on the date of official completion of the Statewide Base Map project, as specified under Section 3(2) of this Act;

(2) The provisions of Section 2 of this Act shall take effect ~~24~~ 28 months after the date of official ~~completion of the "MD iMap" State Base Map project, as specified under Section 3(1) of this Act~~ completion of the Statewide Base Map project; and

(3) The Critical Area Commission shall adopt regulations regarding the administration of local critical area programs related to mapping issues during the process of transition from reliance on the State wetlands maps to the Statewide Base Map for determination of the Chesapeake and Atlantic Coastal Bays Critical Area.

SECTION 5. AND BE IT FURTHER ENACTED, That for the purpose of a ~~new subdivision, this Act may not be construed to apply to a property for which:~~

~~(1) an initial application for subdivision was submitted before January 1, 2008; and~~

~~(2) a final plat is recorded by December 31, 2008~~ criminal prosecution under § 8–1815(a)(2)(ii) of the Natural Resources Article, as enacted under Section 1 of this Act, this Act shall be construed prospectively to apply only to a Critical Area violation alleged to have arisen out of an act or omission that originated on or after July 1, 2008, and this Act may not be applied or interpreted to have any effect on or application to an alleged critical area violation that originated before the effective date of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That each local jurisdiction with an approved Critical Area program shall report to the Critical Area Commission by January 1, 2009 regarding its proposed procedures for notice of Critical Area project approval or denial and for bringing lots into Program conformance under § 8–1808(c)(1)(ii)4 and 12 of the Natural Resources Article, as enacted under Section 1 of this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That the considerations required under § 8–1808.1(c)(3) of the Natural Resources Article, as enacted under Section 1 of this Act:

(1) Shall be a part of each growth allocation determination made by the Critical Area Commission at a formal meeting of the Commission occurring on July 1, 2008 or thereafter; and

(2) May not be applied to:

(i) Property in the town of St. Michael's designated as an intensely developed area by an award of growth allocation approved by the Critical Area Commission before July 1, 2006; or

(ii) Any other award of growth allocation approved by the Critical Area Commission before July 1, 2008.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(1) The provisions of this Act regarding lot coverage under § 8–1808.3 of the Natural Resources Article, as enacted under Section 1 of this Act, may not be construed to affect a development project, including the plans for the development project and any subsequent permits related to those plans, if the development project meets the following requirements:

(i) 1. An application for a building permit or a grading permit is filed by October 1, 2008, and the permit is issued by January 1, 2010; or

2. An initial application for development that satisfies all local requirements for submittal is filed by October 1, 2008, and the development plan is approved by July 1, 2010;

(ii) The approved permit or approved development plan remains valid in accordance with local procedures and requirements;

(iii) By July 1, 2010:

1. In accordance with the requirements of the local jurisdiction regarding impervious surface limitations applicable before the effective date of this Act, the applicant prepares a detailed lot coverage plan that is drawn to scale and shows the amounts of impervious surface area, partially pervious surface area, and developed pervious surface area in the development project; and

2. The lot coverage plan is approved by the local jurisdiction and maintained in the local jurisdiction's files; and

(iv) The development project is implemented in compliance with the approved lot coverage plan, except as authorized under paragraph (3)(ii) of this section;

(2) By October 1, 2010, a local jurisdiction shall provide the Critical Area Commission with a list of the projects for which lot coverage plans have been approved under paragraph (1)(iii)2 of this section.

(3) If a change or revision to a lot coverage plan approved under paragraph (1)(iii)2 of this section operates so as to:

(i) Increase the amount of impervious surface area, partially pervious surface area, or developed pervious surface area in the development project, the provisions of paragraph (1) of this section may not apply and the project shall be completed in accordance with the lot coverage requirements under § 8–1808.3 of the Natural Resources Article, as enacted under Section 1 of this Act; or

(ii) Equal or decrease the amount of impervious surface area, partially pervious surface area, or developed pervious surface area in the development project, the provisions of paragraph (1) of this section shall continue to apply;

(4) If a development plan does not receive final approval by July 1, 2010, as required under paragraph (1)(i)2 of this section, this Act may not be construed to terminate the operation of paragraph (1) of this section as to that development project if the failure to meet that date is due solely to the application of a building moratorium or an adequate public facilities ordinance in the local jurisdiction in which the development project is located; and

(5) A property owner, through subsequent development or redevelopment, may not exceed the amounts of impervious surface, partially pervious, or developed pervious surface area shown and specified on the lot coverage plan approved under paragraph (1)(iii)2 of this section.

SECTION 9. AND BE IT FURTHER ENACTED, That, as a result of remapping under this Act, the designation of an unclassified area that was not previously within the Chesapeake and Atlantic Coastal Bays Critical Area may not affect the initial construction of a development project or activity if by December 31, 2008, the development project or activity receives either growth allocation, final subdivision approval, final site plan approval, or any other final approval, or is vested.

SECTION 10. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

CHAPTER 120

(Senate Bill 213)

AN ACT concerning

Chesapeake ~~Bay~~ *and Atlantic Coastal Bays* 2010 Trust Fund and Nonpoint Source Fund

FOR the purpose of altering the Chesapeake ~~Bay~~ *and Atlantic Coastal Bays* 2010 Trust Fund and its purposes; stating the intent of the General Assembly; providing for the uses of the Fund; establishing in statute the BayStat Program and BayStat Subcabinet; requiring the BayStat Subcabinet to oversee the administration of the Program; establishing the responsibilities of the Program; requiring the BayStat Subcabinet to submit to the public a certain annual report and develop ~~an~~ annual work and expenditure ~~plan~~ plans; requiring the Governor to submit ~~the~~ annual work and expenditure ~~plan~~ plans to the General Assembly as part of the annual budget submission; requiring the BayStat Subcabinet to prepare a final work and expenditure plan; requiring the Program to implement certain measures for certain purposes; requiring the Program to distribute funds from the Trust Fund to the BayStat Subcabinet agencies; requiring the BayStat Subcabinet agencies to ~~redistribute the funds through grants to various entities and to the Chesapeake Bay Nonpoint Source Fund~~ administer the funds, including redistributing the funds in a certain manner; requiring the Program to develop certain grant solicitations, guidelines, and applications; requiring grant agreements to comply with certain requirements; requiring grant recipients to submit a certain annual report that includes certain information; prohibiting the use of the Trust Fund for certain purposes; establishing a BayStat Program Scientific Advisory Panel, composed of certain individuals appointed by the Governor; establishing certain responsibilities for the Panel; authorizing ~~State~~ *the BayStat Subcabinet* agencies ~~that administer certain grants to receive certain administrative costs from the Trust Fund~~ *to distribute to a certain administrative cost account a certain amount to administer grant programs*; establishing the Chesapeake ~~Bay~~ *and Atlantic Coastal Bays* Nonpoint Source Fund as a special, continuing, nonlapsing fund in the Water Quality Financing Administration in the Department of the Environment; establishing the purpose of the Fund; establishing certain funding for the Fund; requiring the Fund to be subject to a certain audit; authorizing the Administration to establish accounts and subaccounts in the Fund for certain purposes; establishing the uses of the Fund; providing for certain bonding authority relating to money in the Fund; requiring the Administration to provide for a certain system of financial accounting, controls, audits, and reports for certain funds that conforms with certain State and federal laws; requiring a certain audit and audit report of certain funds; defining certain terms; and generally relating to dedicated funding sources for the restoration of the Chesapeake ~~Bay~~ *and Atlantic Coastal Bays* and the waters of the State.

BY renumbering
Article – Natural Resources

Section 8–205
to be Section 8–2A–01 to be under the new subtitle "Subtitle 2A. Chesapeake ~~Bay~~ *and Atlantic Coastal Bays* 2010 Trust Fund"
Annotated Code of Maryland
(2007 Replacement Volume)
(As enacted by Chapter 6 of the Acts of the General Assembly Special Session of 2007)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–2A–01
Annotated Code of Maryland
(2007 Replacement Volume)
(As enacted by Section 1 of this Act)

BY adding to
Article – Natural Resources
Section 8–2A–02 through 8–2A–04
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1601, 9–1611, and 9–1616
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY adding to
Article – Environment
Section 9–1605.3 and 9–1617.1
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY renumbering
Article – Natural Resources
Section 8–2A–01 and 8–2A–02, respectively,
to be Section 8–2A–02 and 8–2A–01, respectively
Annotated Code of Maryland
(2007 Replacement Volume)
(As enacted by Section 2 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–205 of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 8–2A–01 to be under the new subtitle "Subtitle 2A. Chesapeake ~~Bay~~ *and Atlantic Coastal Bays* 2010 Trust Fund".

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

Article – Natural Resources

SUBTITLE 2A. CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* 2010 TRUST FUND.

8–2A–01.

(a) There is a Chesapeake ~~Bay~~ ***AND ATLANTIC COASTAL BAYS*** 2010 Trust Fund.

(b) The purpose of the Fund is to provide **[**the**]** financial assistance necessary to **[**meet, by 2010,**]** **ADVANCE MARYLAND'S PROGRESS IN MEETING** the goals established in the Chesapeake 2000 Agreement for the restoration of the Chesapeake Bay and its tributaries, including the Patuxent River**, *AND TO RESTORE THE HEALTH OF THE ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES*, BY FOCUSING LIMITED FINANCIAL RESOURCES ON NONPOINT SOURCE POLLUTION CONTROL PROJECTS IN ALL REGIONS OF THE STATE**.

(c) The Secretary shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) Money appropriated in the State budget for the Fund;

(2) Money distributed to the Fund under §§ 2–1104 and 2–1302.1 of the Tax – General Article; and

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

(f) **(1)** The Fund may be used only for the implementation of **NONPOINT SOURCE POLLUTION CONTROL ~~MEASURES~~ PROJECTS TO ACHIEVE** the State's tributary strategy developed in accordance with the Chesapeake 2000 Agreement ***AND***

TO IMPROVE THE HEALTH OF THE ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES.

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, WHEN POSSIBLE, MONEYS IN THE FUND SHALL BE GRANTED TO LOCAL GOVERNMENTS AND OTHER POLITICAL SUBDIVISIONS FOR AGRICULTURAL, FORESTRY, STREAM AND WETLAND RESTORATION, AND URBAN AND SUBURBAN STORMWATER NONPOINT SOURCE POLLUTION CONTROL PROJECTS.

(g) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be retained to the credit of the Fund.

(h) Money expended from the Fund for the restoration of the Chesapeake ~~Bay and its~~ ***AND ATLANTIC COASTAL BAYS AND THEIR*** tributaries, including the Patuxent River, is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for ~~Bay~~ ***BAY*** restoration.

8–2A–02.

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

~~(2)~~ (B) "BAYSTAT PROGRAM" ~~OR "PROGRAM" MEANS THE PROGRAM~~ MEANS THE PROGRAM ESTABLISHED UNDER § 8–2A–03 OF THIS SUBTITLE.

~~(3)~~ ~~(I)~~ (C) (1) "NONPOINT SOURCE POLLUTION CONTROL PROJECT" MEANS A PROJECT TO IMPROVE WATER QUALITY BY A REDUCTION OF NITROGEN, ~~PHOSPHOROUS~~ *PHOSPHORUS*, OR SEDIMENT POLLUTION.

~~(II)~~ (2) "NONPOINT SOURCE POLLUTION CONTROL PROJECT" INCLUDES:

~~1.~~ (I) AN AGRICULTURAL BEST MANAGEMENT IMPLEMENTATION PRACTICE, INCLUDING COVER CROPS, RIPARIAN FORESTED BUFFER, MANURE PROCESSING, GRASSED WATERWAYS, ANIMAL WASTE STORAGE STRUCTURES, AND LIVESTOCK FENCING;

~~2.~~ (II) AN URBAN OR SUBURBAN STORM WATER PRACTICE;

~~3.~~ (III) A SUSTAINABLE FOREST MANAGEMENT PRACTICE, INCLUDING A FOREST STEWARDSHIP PLAN OR A NONORNAMENTAL URBAN AND SUBURBAN TREE PLANTING PROJECT;

~~4.~~ (IV) STREAM AND WETLAND RESTORATION;

~~5.~~ (V) RIPARIAN BUFFER PLANTING;

~~6.~~ (VI) A PROJECT THAT DEMONSTRATES THE EFFECTIVENESS OF AN INNOVATIVE NONPOINT SOURCE POLLUTION REDUCTION MEASURE PROVIDED THAT THE MEASURE IS CAPABLE OF INTEGRATION INTO EXISTING NONPOINT SOURCE POLLUTION PROGRAMS;

~~7. (VII) TARGETED ENFORCEMENT OF NONPOINT SOURCE POLLUTION LAWS AND REGULATIONS THAT IMPROVE WATER QUALITY;~~

~~8.~~ ~~(VIII)~~ (VII) TECHNICAL ASSISTANCE NECESSARY TO IMPLEMENT A NONPOINT SOURCE POLLUTION CONTROL PROJECT; ~~AND~~

~~9. DEVELOPMENT, REDEVELOPMENT, OR IMPROVEMENT OF A MUNICIPAL PARK PROVIDED THAT THE DEVELOPMENT, REDEVELOPMENT, OR IMPROVEMENT INCORPORATES STATE–OF–THE–ART AND SUSTAINABLE NONPOINT SOURCE POLLUTION CONTROL MEASURES~~

(VIII) IMPROVEMENT OF A MUNICIPAL PARK LOCATED ON OR ADJACENT TO A WATERWAY, PROVIDED THAT THE IMPROVEMENT IS LIMITED TO STATE–OF–THE–ART AND SUSTAINABLE NONPOINT SOURCE POLLUTION CONTROL MEASURES THAT DEMONSTRABLY IMPROVE WATER QUALITY BY REDUCING NITROGEN, PHOSPHORUS, AND SEDIMENT POLLUTION; AND

~~(IX)~~ ~~(VIII)~~ *(IX)* STRATEGIC MONITORING OF WATER QUALITY IMPROVEMENTS FROM NONPOINT SOURCE POLLUTION CONTROL PROJECTS *THAT HAVE BEEN FUNDED, IN WHOLE OR IN PART, WITH GRANTS FROM THE TRUST FUND*.

~~(4)~~ (D) "TRIBUTARY STRATEGIES" MEANS EACH OF MARYLAND'S 10 WATERSHED–SPECIFIC PLANS AS AMENDED FROM TIME TO TIME TO REDUCE THE AMOUNT OF NITROGEN, ~~PHOSPHOROUS~~ *PHOSPHORUS*, AND SEDIMENT POLLUTION THAT ENTERS THE CHESAPEAKE ~~BAY AND ITS~~ *AND ATLANTIC COASTAL BAYS AND THEIR* TRIBUTARIES.

~~(5)~~ (E) "TRUST FUND" MEANS THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* 2010 TRUST FUND.

8–2A–03.

(A) (1) THERE IS A BAYSTAT PROGRAM TO:

(I) MEASURE AND EVALUATE EFFORTS TO RESTORE THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS*; AND

(II) ADMINISTER THE TRUST FUND.

(2) THE BAYSTAT SUBCABINET SHALL OVERSEE THE ADMINISTRATION OF THE BAYSTAT PROGRAM.

(3) THE BAYSTAT SUBCABINET IS COMPOSED OF:

(I) THE SECRETARY OF NATURAL RESOURCES;

(II) THE SECRETARY OF THE ENVIRONMENT;

(III) THE SECRETARY OF PLANNING;

(IV) THE SECRETARY OF AGRICULTURE; ~~AND~~

(V) THE PRESIDENT OF THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE; ~~AND~~

(VI) THE DEAN OF THE COLLEGE OF AGRICULTURE AND NATURAL RESOURCES AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK; AND

(VII) THE CHAIR OF THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS.

(B) THE BAYSTAT PROGRAM SHALL:

(1) PROVIDE ACCURATE AND TIMELY DATA TO POLICYMAKERS AND THE PUBLIC ABOUT THE EFFICACY AND COST–EFFECTIVENESS OF LOCAL, STATE, AND FEDERAL PROGRAMS TO RESTORE THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS*;

(2) TRACK AND ASSESS THE PROGRESS OF STATE AND FEDERAL PROGRAMS TO IMPROVE THE HEALTH OF THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS*;

(3) ASSESS THE EFFECTIVENESS OF ENFORCEMENT PROGRAMS IN CURBING POLLUTION AND ACHIEVING CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* RESTORATION GOALS AND INSTITUTE ACTIONS TO IMPROVE THE EFFECTIVENESS OF ENFORCEMENT PROGRAMS;

(4) ADOPT MEASURABLE GOALS FOR CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* RESTORATION;

(5) IDENTIFY NEW THREATS TO THE HEALTH OF THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS*;

(6) INCREASE PUBLIC AWARENESS OF, AND PARTICIPATION IN, EFFORTS TO RESTORE THE VITALITY OF THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS*; AND

(7) DIRECT THE ADMINISTRATION OF THE TRUST FUND.

(C) THE BAYSTAT SUBCABINET SHALL:

(1) REPORT ANNUALLY TO THE PUBLIC REGARDING:

(I) THE HEALTH OF THE CHESAPEAKE BAY TRIBUTARY BASIN;

(II) THE HEALTH OF THE ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES;

~~(II)~~ *(III)* THE STATUS OF LOCAL, STATE, AND FEDERAL PROGRAMS TO RESTORE THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS*; AND

~~(III)~~ *(IV)* ESTIMATED NUTRIENT REDUCTIONS ACHIEVED THROUGH PROJECTS FINANCED BY THE TRUST FUND; AND

(2) (I) DEVELOP AN ANNUAL WORK ~~AND EXPENDITURE~~ PLAN THAT:

~~(I)~~ ~~IDENTIFIES~~ IDENTIFIES THE PLANNED WORK ~~AND EXPENDITURES~~ TO BE FUNDED WITH MONEY FROM THE TRUST FUND FOR THE

NEXT FISCAL YEAR, INCLUDING ANNUAL NUTRIENT AND SEDIMENT REDUCTION TARGETS, PERFORMANCE MEASURES, AND ACCOUNTABILITY CRITERIA; AND

(II) ~~PROVIDES~~ DEVELOP AN ANNUAL EXPENDITURE PLAN THAT IDENTIFIES PLANNED EXPENDITURES FOR THE WORK PLAN AND INCLUDES AN ACCOUNTING OF ALL MONEYS DISTRIBUTED FROM THE TRUST FUND IN THE PREVIOUS FISCAL YEAR.

(D) THE GOVERNOR SHALL SUBMIT THE ANNUAL WORK AND EXPENDITURE ~~PLAN~~ PLANS TO THE GENERAL ASSEMBLY AS PART OF THE ANNUAL BUDGET SUBMISSION.

(E) ON AN ANNUAL BASIS THE BAYSTAT SUBCABINET SHALL PREPARE A FINAL WORK AND EXPENDITURE PLAN BASED ON THE BUDGET APPROVED BY THE GENERAL ASSEMBLY.

8–2A–04.

(A) THE BAYSTAT PROGRAM SHALL DIRECT THE ADMINISTRATION OF THE TRUST FUND IN ACCORDANCE WITH THIS SECTION.

(B) (1) THE BAYSTAT PROGRAM SHALL IMPLEMENT NONPOINT SOURCE POLLUTION REDUCTION MEASURES TO ACHIEVE THE TRIBUTARY STRATEGIES BY TARGETING FUNDS, GEOGRAPHICALLY AND BY PRACTICE, TO PROVEN, SCIENTIFICALLY–BASED PROJECTS THAT PROVIDE THE MOST COST–EFFECTIVE AND MEASURABLE WATER QUALITY BENEFITS TO THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS*.

(2) TO THE MAXIMUM EXTENT PRACTICABLE, THE BAYSTAT PROGRAM SHALL DISTRIBUTE THE TRUST FUND MONEYS ON A COMPETITIVE BASIS.

(C) (1) THE BAYSTAT PROGRAM SHALL DISTRIBUTE FUNDS FROM THE TRUST FUND TO THE BAYSTAT SUBCABINET AGENCIES IN ACCORDANCE WITH THE FINAL WORK AND EXPENDITURE PLANS.

(2) THE BAYSTAT SUBCABINET AGENCIES SHALL ~~REDISTRIBUTE~~ ADMINISTER THE FUNDS IN ACCORDANCE WITH THE FINAL WORK AND EXPENDITURE PLANS, INCLUDING THE DISTRIBUTION OF FUNDS:

(I) THROUGH GRANTS~~, TO THE MAXIMUM EXTENT PRACTICABLE ON A COMPETITIVE BASIS,~~ TO:

1. COUNTIES;

2. BICOUNTY AGENCIES;

3. MUNICIPALITIES;

4. FOREST CONSERVANCY DISTRICT BOARDS;

5. SOIL CONSERVATION DISTRICTS;

6. ACADEMIC INSTITUTIONS; AND

7. NONPROFIT ORGANIZATIONS HAVING A DEMONSTRATED ABILITY TO IMPLEMENT NONPOINT SOURCE POLLUTION CONTROL PROJECTS; ~~AND~~

(II) TO THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND ESTABLISHED UNDER § 9–1605.3 OF THE ENVIRONMENT ARTICLE; ~~AND~~

(III) TO THE MARYLAND AGRICULTURAL COST–SHARE PROGRAM ESTABLISHED UNDER TITLE 8, SUBTITLE 7 OF THE AGRICULTURE ARTICLE FOR NONPOINT SOURCE POLLUTION CONTROL PROJECTS; *AND*

***(IV) TO THE WOODLAND INCENTIVE FUND ESTABLISHED UNDER § 5–307 OF THIS ARTICLE*.**

(3) (I) THE BAYSTAT PROGRAM SHALL DEVELOP SOLICITATIONS, GUIDELINES, AND APPLICATIONS FOR TRUST FUND GRANTS THAT SHALL INCLUDE CONSIDERATION OF THE EXTENT TO WHICH A PROPOSED PROJECT, BOTH GEOGRAPHICALLY AND BY PRACTICE, WILL DELIVER THE GREATEST, MOST COST–EFFECTIVE, AND MEASURABLE NONPOINT SOURCE POLLUTION REDUCTION PER TRUST FUND DOLLAR.

(II) THE BAYSTAT PROGRAM ~~MAY~~ SHALL ENCOURAGE AND CONSIDER ~~A~~ MULTI–YEAR, MULTI–PARTNER PROPOSALS, LOCAL MATCH~~,~~ OR COST–SHARE AGREEMENTS, OR ~~OTHER ACTION~~ SIMILAR ACTIONS PROPOSED BY A GRANT APPLICANT IN EVALUATING A TRUST FUND GRANT APPLICATION.

(D) ANY GRANT AGREEMENT REGARDING FUNDS FROM THE TRUST FUND SHALL:

(1) SPECIFY THE USE OF THE FUNDS PROVIDED UNDER THE GRANT, ACCOUNTABILITY MEASURES, AND PERFORMANCE REQUIREMENTS; ~~AND~~

(2) TAKE INTO ACCOUNT THE NEED FOR EFFICIENT, ~~MULTIYEAR~~ MULTI–YEAR FUNDING AND ADMINISTRATION; AND

(3) INCLUDE PROVISIONS FOR VERIFICATION THAT PRACTICES ARE BEING IMPLEMENTED.

(E) (1) A RECIPIENT OF ~~A~~ *FUNDS FROM THE* TRUST FUND ~~GRANT~~ IN ANY FISCAL YEAR SHALL SUBMIT AN ANNUAL REPORT TO THE BAYSTAT PROGRAM BY NOVEMBER 1 OF THE NEXT FISCAL YEAR.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

~~(I) AN ESTIMATE OF THE NUTRIENT LOADING REDUCTIONS RESULTING FROM AN ONGOING PROJECT, AND THE TIME FRAME FOR COMPLETION OF THE PROJECT; AND~~

~~(II) AN ASSESSMENT OF EXPECTED NUTRIENT LOADING REDUCTIONS AND WATER QUALITY BENEFITS ACHIEVED THROUGH COMPLETED PROJECTS; AND~~

~~(III) THE METHODOLOGIES USED TO CALCULATE ITEMS (I) AND (II) OF THIS PARAGRAPH.~~

(I) FOR AGENCIES RECEIVING MONEYS FROM THE TRUST FUND:

1. A DESCRIPTION OF HOW THE FUNDS WERE ALLOCATED, INCLUDING:

A. THE NUMBER AND AMOUNTS OF GRANTS AWARDS; AND

B. DIRECT EXPENDITURES BY THE AGENCY;

2. HOW FUNDING WAS LEVERAGED; AND

3. ESTIMATED OR CALCULATED NUTRIENT REDUCTIONS ASSOCIATED WITH TRUST FUND EXPENDITURES.

(II) FOR RECIPIENTS OF COMPETITIVE GRANTS FROM THE TRUST FUND, A DESCRIPTION OF FUNDED PROJECTS, INCLUDING:

1. PROJECT LOCATION;

2. DESCRIPTION OF PRACTICES IMPLEMENTED;

3. TIME FRAMES FOR PROJECT COMPLETION;

4. ESTIMATED OR CALCULATED NUTRIENT REDUCTIONS; AND

5. PROVISIONS FOR LONG–TERM MAINTENANCE OF PRACTICES.

(F) FUNDS FROM THE TRUST FUND MAY NOT BE USED TO ~~PAY FOR PRIVATE PROJECTS THAT ARE REQUIRED FOR REGULATORY COMPLIANCE PURPOSES~~ ENABLE AN INDIVIDUAL CITED FOR NONCOMPLIANCE WITH A NONPOINT SOURCE POLLUTION CONTROL LAW OR REGULATION TO ACHIEVE COMPLIANCE.

(G) (1) THERE IS A BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL.

(2) THE GOVERNOR SHALL APPOINT THE CHAIR AND MEMBERS OF THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL.

(3) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL SHALL INCLUDE SCIENTISTS AND OTHER TECHNICAL EXPERTS WITH DEMONSTRATED EXPERTISE IN THE DISCIPLINES RELATED TO PROTECTION AND RESTORATION OF THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS*.

(4) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL SHALL:

(I) ON OR BEFORE ~~SEPTEMBER~~ AUGUST 1, ANNUALLY PROVIDE RECOMMENDATIONS TO THE BAYSTAT SUBCABINET ON THE USE OF FUNDS OF THE TRUST FUND FOR THE FOLLOWING FISCAL YEAR;

(II) MONITOR THE DISTRIBUTION OF FUNDS FROM THE TRUST FUND;

(III) REVIEW THE CATEGORIES OF GRANTS MADE IN THE PREVIOUS YEAR TO ASSESS NUTRIENT LOADING REDUCTION ESTIMATES AND COST EFFICIENCIES AND THE EFFECTIVENESS OF ANY INNOVATIVE NONPOINT SOURCE POLLUTION REDUCTION MEASURE;

(IV) REVIEW THE PROPOSED ANNUAL WORK ~~AND EXPENDITURE~~ PLAN AND ADVISE THE BAYSTAT SUBCABINET OF ANY RECOMMENDED CHANGES;

(V) ON REQUEST BY THE BAYSTAT SUBCABINET, REVIEW INDIVIDUAL GRANT APPLICATIONS; AND

(VI) ANNUALLY REVIEW ANY TRUST FUND MONEYS THAT ARE NOT DISTRIBUTED ON A COMPETITIVE BASIS TO ASSESS WHETHER THOSE MONEYS MAY BE DISTRIBUTED ON A COMPETITIVE BASIS~~;~~.

(H) ~~A STATE AGENCY THAT ADMINISTERS A TRUST FUND GRANT SHALL RECEIVE FROM THE FUND AN AMOUNT EQUIVALENT TO ITS REASONABLE DIRECT COSTS OF GRANT ADMINISTRATION~~ *THE BAYSTAT SUBCABINET AGENCIES MAY DISTRIBUTE TO AN ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS NECESSARY TO ADMINISTER GRANT PROGRAMS, NOT TO EXCEED 1.5% OF THE ALLOCATIONS TO THE BAYSTAT SUBCABINET AGENCIES*.

Article – Environment

9–1601.

(a) Unless the context clearly requires otherwise, in this subtitle the following words have the meanings indicated.

(b) "Administration" means the Maryland Water Quality Financing Administration.

(c) "Bay Restoration Fund" means the Bay Restoration Fund established under § 9–1605.2 of this subtitle.

(d) "Biological nutrient removal" means a biological nutrient removal technology capable of reducing the nitrogen in wastewater effluent to not more than 8 milligrams per liter, as calculated on an annually averaged basis.

(e) "Board" means the Board of Public Works.

(f) "Bond" means a bond, note, or other evidence of obligation of the Administration issued under this subtitle, including a bond or revenue anticipation note, notes in the nature of commercial paper, and refunding bonds.

(g) "Bond resolution" means the resolution or resolutions of the Director, including the trust agreement, if any, authorizing the issuance of and providing for the terms and conditions applicable to bonds.

(h) "Borrower" means a local government or a person as defined in § 1–101(h) of this article who has received a loan.

(I) "CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND" MEANS THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND ESTABLISHED UNDER § 9–1605.3 OF THIS SUBTITLE.

[(i)**] (J)** "Director" means the Director of the Administration.

[(j)**] (K)** "Drinking Water Loan Fund" means the Maryland Drinking Water Revolving Loan Fund.

[(k)**] (L)** "Eligible costs" means the costs identified under § 9–1605.2(i) of this subtitle.

[(l)**] (M)** "Enhanced nutrient removal" means:

(1) An enhanced nutrient removal technology that is capable of reducing the nitrogen and phosphorus concentrations in wastewater effluent to concentrations of not more than 3 milligrams per liter total nitrogen and not more than 0.3 milligrams per liter total phosphorus, as calculated on an annually averaged basis; or

(2) If the Department has determined that the concentrations under item (1) of this subsection are not practicable for a wastewater facility, the lowest average annual wastewater effluent nitrogen and phosphorus concentrations that the Department determines are practicable for that facility.

[(m)**] (N)** "Equivalent dwelling unit" means a measure of wastewater effluent where one unit is equivalent to:

(1) If a local government or billing authority for a wastewater facility has established a definition for "equivalent dwelling unit" on or before January 1, 2004, the average daily flow of wastewater effluent that the local government or billing authority has established to be equivalent to the average daily flow of wastewater effluent discharged by a residential dwelling, which may not exceed 250 gallons; or

(2) If a local government or billing authority has not established a definition for "equivalent dwelling unit" on or before January 1, 2004, or if a local government or billing authority has established a definition that exceeds 250 gallons of wastewater effluent per day, an average daily flow of 250 gallons of wastewater effluent.

[(n)**] (O)** "Facility" means a wastewater facility or all or a portion of a water supply system as defined in § 9–201(u) of this title.

[(o)**] (P)** "Federal Safe Drinking Water Act" means Title XIV of the Public Health Service Act, P.L. 93–523, as amended, 42 U.S.C. § 300f, et seq., and the rules and regulations promulgated thereunder.

[(p)**] (Q)** "Federal Water Pollution Control Act" means the Water Pollution Control Act of 1972, P.L. 92–500, as amended, 33 U.S.C. § 1251, et seq., and rules and regulations promulgated thereunder.

[(q)**] (R)** "Fund" means a fund established by this subtitle, including the Water Quality Fund, the Drinking Water Loan Fund, and the Bay Restoration Fund **AND THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND**.

[(r)**] (S)** "Grant" means a grant from the Administration to a grantee.

[(s)**] (T)** "Grant agreement" means a written agreement between the Administration and a grantee with respect to a grant.

[(t)**] (U)** "Grantee" means the grant recipient.

[(u)**] (V)** "Lender" has the meaning stated in § 9–1606.1 of this subtitle.

[(v)**] (W)** "Linked deposit" has the meaning stated in § 9–1606.1 of this subtitle.

[(w)**] (X)** "Linked deposit loan" has the meaning stated in § 9–1606.1 of this subtitle.

[(x)**] (Y)** "Linked deposit program" has the meaning stated in § 9–1606.1 of this subtitle.

[(y)**] (Z)** "Loan" means a loan from the Administration to a borrower for the purpose of financing all or a portion of the cost of a wastewater facility, if the loan is

from the Water Quality Fund, or water supply system, if the loan is from the Drinking Water Loan Fund.

[(z)**] (AA)** "Loan agreement" means a written agreement between the Administration and a borrower with respect to a loan.

[(aa)**] (BB)** "Loan obligation" means a bond, note, or other evidence of obligation, including a mortgage, deed of trust, lien, or other security instrument, issued or executed by a borrower to evidence its indebtedness under a loan agreement with respect to a loan.

[(bb)**] (CC)** (1) "Local government" means a county, municipal corporation, sanitary district, or other State or local public entity which has authority to own or operate a facility.

(2) "Local government" includes any combination of two or more of the public entities under paragraph (1) of this subsection when acting jointly to construct or operate a facility.

[(cc)**] (DD)** (1) "Person" means an individual, corporation, partnership, association, the State, any unit of the State, commission, special taxing district, or the federal government.

(2) "Person" does not include a county, municipal corporation, bi–county or multicounty agency under Article 28 or 29 of the Code, housing authority under Division II of the Housing and Community Development Article, school board, community college, or any other unit of a county or municipal corporation.

[(dd)**] (EE)** (1) "Residential dwelling" means a room or group of rooms occupied as living quarters by an individual, a single family, or other discrete group of persons with facilities that are used or intended to be used for living, sleeping, cooking, sanitation, and eating, including an apartment unit, condominium unit, cooperative unit, town house unit, mobile home, or house.

(2) "Residential dwelling" does not include a hospital, hotel, motel, inn, boarding house, club, dormitory, school, college, or similar seasonal, institutional, or transient facility.

[(ee)**] (FF)** "Single site" means a discrete grouping of buildings or structures that are located on contiguous or adjacent property and owned by the same user.

[(ff)**] (GG)** (1) "User" means any person discharging wastewater to:

(i) A wastewater facility that has a State discharge permit or national pollutant discharge elimination system discharge permit;

(ii) An onsite sewage disposal system; or

(iii) A sewage holding tank.

(2) "User" does not include a person whose sole discharge is stormwater under a stormwater permit.

[(gg)**] (HH)** "Wastewater facility" means any equipment, plant, treatment works, structure, machinery, apparatus, interest in land, or any combination of these, which is acquired, used, constructed, or operated for the storage, collection, treatment, neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal of wastewater, or for the final disposal of residues resulting from the treatment of wastewater, including: treatment or disposal plants; outfall sewers, interceptor sewers, and collector sewers; pumping and ventilating stations, facilities, and works; programs and projects for controlling nonpoint sources of water pollution and for estuarine conservation and management; and other real or personal property and appurtenances incident to their development, use, or operation.

[(hh)**] (II)** "Water Quality Fund" means the Maryland Water Quality Revolving Loan Fund.

[(ii)**] (JJ)** "Water supply system" has the meaning stated in § 9–201(u) of this title.

9–1605.3.

(A) (1) THERE IS A CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND.

(2) THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND SHALL BE MAINTAINED AND ADMINISTERED BY THE ADMINISTRATION IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AND SUCH RULES OR PROGRAM DIRECTIVES AS THE SECRETARY OR THE BOARD MAY FROM TIME TO TIME PRESCRIBE.

(B) THE PURPOSE OF THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND IS TO PROVIDE FINANCIAL ASSISTANCE FOR THE IMPLEMENTATION OF URBAN AND SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND WETLAND RESTORATION.

(C) THERE SHALL BE DEPOSITED IN THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND:

(1) MONEY DISTRIBUTED TO THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND UNDER § 8–2A–04 OF THE NATURAL RESOURCES ARTICLE AND APPROPRIATED IN THE STATE BUDGET FOR THE FUND;

(2) NET PROCEEDS OF BONDS ISSUED BY THE ADMINISTRATION;

(3) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEYS IN THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND; AND

(4) ANY OTHER MONEYS FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(D) (1) THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND IS A SPECIAL, CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) MONEY IN THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

(3) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND, THE TREASURER SHALL SEPARATELY HOLD, AND THE COMPTROLLER SHALL ACCOUNT FOR, THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND.

(4) SUBJECT TO THE PROVISION OF ANY APPLICABLE BOND RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND, THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT OF THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND.

(6) THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND SHALL BE SUBJECT TO AUDIT BY THE OFFICE OF

LEGISLATIVE AUDITS AS PROVIDED UNDER § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

(7) THE ADMINISTRATION MAY FROM TIME TO TIME ESTABLISH ACCOUNTS AND SUBACCOUNTS WITHIN THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND AS MAY BE DEEMED DESIRABLE TO EFFECTUATE THE PURPOSES OF THIS SUBTITLE, TO COMPLY WITH THE PROVISIONS OF ANY BOND RESOLUTION, OR TO MEET ANY REQUIREMENT OR RULES OR PROGRAM DIRECTIVES ESTABLISHED BY THE SECRETARY OR THE BOARD.

(8) THE ADMINISTRATION SHALL OPERATE THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND IN ACCORDANCE WITH §§ 9–1607 THROUGH 9–1622 OF THIS SUBTITLE.

(E) THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND SHALL BE USED:

(1) TO AWARD GRANTS FOR UP TO 100 PERCENT OF PROJECT COSTS RELATING TO PLANNING, DESIGN, AND CONSTRUCTION OF URBAN AND SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND WETLAND RESTORATION;

(2) AS A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION IF THE PROCEEDS OF THE SALE OF SUCH BONDS WILL BE DEPOSITED IN THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND;

(3) FOR COSTS ASSOCIATED WITH THE ISSUANCE OF BONDS;

(4) TO EARN INTEREST ON THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND ACCOUNTS; AND

(5) FOR THE REASONABLE COSTS OF ADMINISTERING THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND.

9–1611.

(a) Bonds may be secured by a trust agreement by and between the Administration and a corporate trustee, which may be any trust company or bank having trust powers, within or without the State. Such trust agreement may pledge or assign all or any part of the revenues or corpus of the Water Quality Fund, Drinking Water Loan Fund, **[**or**]** **THE** Bay Restoration Fund, **OR THE CHESAPEAKE ~~BAY~~ *AND***

ATLANTIC COASTAL BAYS **NONPOINT SOURCE FUND,** or any account within these funds, and may pledge or assign or grant a lien on or security interest in any loan agreement or loan obligation. Any such trust agreement or resolution authorizing the issuance of bonds may contain such provisions for the protection and enforcement of the rights and remedies of the bondholders as may be deemed reasonable and proper, including covenants setting forth the duties of the Administration in relation to the making, administration and enforcement of loans and the custody, safeguarding and application of moneys. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, such trust agreement may contain such other provisions as the Director may deem reasonable and proper for the security of the bondholders, including, without limitation, covenants pertaining to the issuance of additional parity bonds upon conditions stated therein consistent with the requirements of this subtitle.

(b) The proceeds of the sale of bonds shall be disbursed in such manner and under such restrictions, if any, as may be provided in such trust agreement.

(c) (1) The revenues and moneys designated as security for bonds shall be set aside at such regular intervals as may be provided in the bond resolution in a special account in the Water Quality Fund, if the net sale proceeds will be deposited in the Water Quality Fund, the Drinking Water Loan Fund, if the net sale proceeds will be deposited in the Drinking Water Loan Fund, **[**or**]** the Bay Restoration Fund, if the net sale proceeds will be deposited in the Bay Restoration Fund, **OR THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND, IF THE NET SALE PROCEEDS WILL BE DEPOSITED IN THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND,** which is pledged to, and charged with, the payment of:

(i) The interest upon such bonds as such interest falls due;

(ii) The principal of such bonds as it falls due;

(iii) The necessary charges of the trustee, bond registrar, and paying agents; and

(iv) The redemption price or purchase price of bonds retired by call or purchase as provided in the bond resolution or trust agreement.

(2) Any amounts set aside in such special account which are not needed to provide for the payment of the items included under paragraph (1) of this subsection may be used for any other lawful purpose, to the extent provided in the bond resolution. Such pledge shall be valid and binding from the time when the pledge is made. Such revenues or other moneys so pledged and thereafter received by the Administration shall immediately be subject to the lien of such pledge without any

physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having any claims of any kind in tort, contract, or otherwise against the Administration or the Water Quality Fund, the Drinking Water Loan Fund, **[**or**]** the Bay Restoration Fund, **OR THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND,** irrespective of whether such parties have notice thereof. Neither the bond resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Administration, any public general or public local law to the contrary notwithstanding.

(d) Any net earnings of the Administration, beyond that necessary for the retirement of bonds or to implement the public purposes or programs of the Administration, shall not inure to the benefit of any person, other than the State of Maryland for use to accomplish the purposes of this subtitle.

9–1616.

The Administration shall not be required to give any bond as security for costs, supersedeas, or any other security in any suit or action brought by or against it, or in proceedings to which it may be a party, in any court of this State, and the Administration shall have the remedies of appeal of whatever kind to all courts without bonds, supersedeas, or security of any kind. No builder's, materialman's, contractor's, laborer's, or mechanic's liens of any kind or character shall ever attach to or become a lien upon the Water Quality Fund, the Drinking Water Loan Fund, **[**or**]** the Bay Restoration Fund**, OR THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND,** or any property, real or personal, belonging to the Administration and no assignment of wages shall be binding upon or recognized by the Administration.

9–1617.1.

(A) (1) THE ADMINISTRATION SHALL MAKE PROVISIONS FOR A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS IN ACCORDANCE WITH GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING.

(2) ALL ACCOUNTING SYSTEMS AND RECORDS, AUDITING PROCEDURES AND STANDARDS, AND FINANCIAL REPORTING FOR THE WATER QUALITY FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION FUND, AND THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND SHALL CONFORM TO THE REQUIREMENTS OF TITLE VI OF THE FEDERAL WATER POLLUTION CONTROL ACT, THE FEDERAL SAFE DRINKING WATER ACT, THE BAY RESTORATION FUND ACT, AND THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* 2010 TRUST FUND UNDER TITLE 8, SUBTITLE

2A OF THE NATURAL RESOURCES ARTICLE, AS APPLICABLE, AND GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING.

(B) (1) AS SOON AS PRACTICAL AFTER THE CLOSING OF THE FISCAL YEAR, AN AUDIT SHALL BE MADE OF THE FINANCIAL BOOKS, RECORDS, AND ACCOUNTS OF THE ADMINISTRATION.

(2) THE AUDIT SHALL BE MADE BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS, SELECTED BY THE ADMINISTRATION, AND LICENSED TO PRACTICE IN THE STATE AS AUDITORS.

(3) (I) THE AUDITORS MAY NOT HAVE A PERSONAL INTEREST EITHER DIRECTLY OR INDIRECTLY IN THE FISCAL AFFAIRS OF THE ADMINISTRATION; AND

(II) SHALL BE EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND AUDITING OF PUBLIC BODIES.

(4) THE AUDIT REPORT SHALL BE PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING PRINCIPLES AND POINT OUT ANY IRREGULARITIES FOUND TO EXIST.

(5) (I) THE AUDITORS SHALL REPORT TO THE SECRETARY THE RESULTS OF THEIR EXAMINATION, INCLUDING THEIR UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL POSITIONS OF THE WATER QUALITY FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION FUND, AND THE CHESAPEAKE ~~BAY~~ *AND ATLANTIC COASTAL BAYS* NONPOINT SOURCE FUND AND THE RESULTS OF THE ADMINISTRATION'S FINANCIAL OPERATIONS.

(II) IF THE AUDITORS ARE UNABLE TO EXPRESS AN UNQUALIFIED OPINION, THE AUDITORS SHALL STATE AND EXPLAIN IN DETAIL THE REASONS FOR THEIR QUALIFICATIONS, DISCLAIMER, OR OPINION INCLUDING RECOMMENDATIONS NECESSARY TO MAKE POSSIBLE FUTURE UNQUALIFIED OPINIONS.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 8–2A–01 and 8–2A–02, respectively, of Article – Natural Resources of the Annotated Code of Maryland, as enacted by Section 2 of this Act, shall be renumbered to be Section(s) 8–2A–02 and 8–2A–01, respectively.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

CHAPTER 121

(House Bill 369)

AN ACT concerning

Chesapeake ~~Bay~~ and Atlantic Coastal Bays 2010 Trust Fund and Nonpoint Source Fund

FOR the purpose of altering the Chesapeake ~~Bay~~ and Atlantic Coastal Bays 2010 Trust Fund and its purposes; stating the intent of the General Assembly; providing for the uses of the Fund; establishing in statute the BayStat Program and BayStat Subcabinet; requiring the BayStat Subcabinet to oversee the administration of the Program; establishing the responsibilities of the Program; requiring the BayStat Subcabinet to submit to the public a certain annual report and develop ~~an~~ annual work and expenditure ~~plan~~ plans; requiring the Governor to submit ~~the~~ annual work and expenditure ~~plan~~ plans to the General Assembly as part of the annual budget submission; requiring the BayStat Subcabinet to prepare a final work and expenditure plan; requiring the Program to implement certain measures for certain purposes; requiring the Program to distribute funds from the Trust Fund to the BayStat Subcabinet agencies; requiring the BayStat Subcabinet agencies to ~~redistribute the funds through grants to various entities and to the Chesapeake Bay Nonpoint Source Fund~~ administer the funds, including redistributing the funds in a certain manner; requiring the Program to develop certain grant solicitations, guidelines, and applications; requiring grant agreements to comply with certain requirements; requiring grant recipients to submit a certain annual report that includes certain information; prohibiting the use of the Trust Fund for certain purposes; establishing a BayStat Program Scientific Advisory Panel, composed of certain individuals appointed by the Governor; establishing certain responsibilities for the Panel; authorizing ~~State~~ *the BayStat Subcabinet* agencies ~~that administer certain grants to receive certain administrative costs from the Trust Fund~~ *to distribute to a certain administrative cost account a certain amount to administer grant programs*; establishing the Chesapeake ~~Bay~~ and Atlantic Coastal Bays Nonpoint Source Fund as a special, continuing, nonlapsing fund in the Water Quality Financing Administration in the Department of the Environment; establishing the purpose of the Fund; establishing certain funding for the Fund; requiring the Fund to be subject to a certain audit; authorizing the Administration to establish accounts and subaccounts in the Fund for certain purposes; establishing the uses of the Fund;

providing for certain bonding authority relating to money in the Fund; requiring the Administration to provide for a certain system of financial accounting, controls, audits, and reports for certain funds that conforms with certain State and federal laws; requiring a certain audit and audit report of certain funds; defining certain terms; and generally relating to dedicated funding sources for the restoration of the Chesapeake ~~Bay~~ and Atlantic Coastal Bays and the waters of the State.

BY renumbering
Article – Natural Resources
Section 8–205
to be Section 8–2A–01 to be under the new subtitle "Subtitle 2A. Chesapeake ~~Bay~~ and Atlantic Coastal Bays 2010 Trust Fund"
Annotated Code of Maryland
(2007 Replacement Volume)
(As enacted by Chapter 6 of the Acts of the General Assembly Special Session of 2007)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–2A–01
Annotated Code of Maryland
(2007 Replacement Volume)
(As enacted by Section 1 of this Act)

BY adding to
Article – Natural Resources
Section 8–2A–02 through 8–2A–04
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1601, 9–1611, and 9–1616
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY adding to
Article – Environment
Section 9–1605.3 and 9–1617.1
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY renumbering
Article – Natural Resources

Section 8–2A–01 and 8–2A–02, respectively
to be Section 8–2A–02 and 8–2A–01, respectively
Annotated Code of Maryland
(2007 Replacement Volume)
(As enacted by Section 2 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–205 of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 8–2A–01 to be under the new subtitle "Subtitle 2A. Chesapeake ~~Bay~~ and Atlantic Coastal Bays 2010 Trust Fund".

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

Article – Natural Resources

SUBTITLE 2A. CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS 2010 TRUST FUND.

8–2A–01.

(a) There is a Chesapeake ~~Bay~~ **AND ATLANTIC COASTAL BAYS** 2010 Trust Fund.

(b) The purpose of the Fund is to provide **[**the**]** financial assistance necessary to **[**meet, by 2010,**]** **ADVANCE MARYLAND'S PROGRESS IN MEETING** the goals established in the Chesapeake 2000 Agreement for the restoration of the Chesapeake Bay and its tributaries, including the Patuxent River**, AND TO RESTORE THE HEALTH OF THE ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES, BY FOCUSING LIMITED FINANCIAL RESOURCES ON NONPOINT SOURCE POLLUTION CONTROL PROJECTS IN ALL REGIONS OF THE STATE**.

(c) The Secretary shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) Money appropriated in the State budget for the Fund;

(2) Money distributed to the Fund under §§ 2–1104 and 2–1302.1 of the Tax – General Article; and

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

(f) **(1)** The Fund may be used only for the implementation of **NONPOINT SOURCE POLLUTION CONTROL ~~MEASURES~~ PROJECTS TO ACHIEVE** the State's tributary strategy developed in accordance with the Chesapeake 2000 Agreement **AND TO IMPROVE THE HEALTH OF THE ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES**.

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, WHEN POSSIBLE, MONEYS IN THE FUND SHALL BE GRANTED TO LOCAL GOVERNMENTS AND OTHER POLITICAL SUBDIVISIONS FOR AGRICULTURAL, FORESTRY, STREAM AND WETLAND RESTORATION, AND URBAN AND SUBURBAN STORMWATER NONPOINT SOURCE POLLUTION CONTROL PROJECTS.

(g) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be retained to the credit of the Fund.

(h) Money expended from the Fund for the restoration of the Chesapeake ~~Bay and its~~ **AND ATLANTIC COASTAL BAYS AND THEIR** tributaries, including the Patuxent River, is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for ~~Bay~~ **BAY** restoration.

8–2A–02.

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

~~(2)~~ (B) "BAYSTAT PROGRAM" ~~OR "PROGRAM" MEANS THE PROGRAM~~ MEANS THE PROGRAM ESTABLISHED UNDER § 8–2A–03 OF THIS SUBTITLE.

~~(3)~~ ~~(I)~~ (C) (1) "NONPOINT SOURCE POLLUTION CONTROL PROJECT" MEANS A PROJECT TO IMPROVE WATER QUALITY BY A REDUCTION OF NITROGEN, ~~PHOSPHOROUS~~ PHOSPHORUS, OR SEDIMENT POLLUTION.

~~(II)~~ (2) "NONPOINT SOURCE POLLUTION CONTROL PROJECT" INCLUDES:

~~1.~~ (I) AN AGRICULTURAL BEST MANAGEMENT IMPLEMENTATION PRACTICE, INCLUDING COVER CROPS, RIPARIAN FORESTED BUFFER, MANURE PROCESSING, GRASSED WATERWAYS, ANIMAL WASTE STORAGE STRUCTURES, AND LIVESTOCK FENCING;

~~2.~~ (II) AN URBAN OR SUBURBAN STORM WATER PRACTICE;

~~3.~~ (III) A SUSTAINABLE FOREST MANAGEMENT PRACTICE ~~OR~~, INCLUDING A FOREST STEWARDSHIP PLAN~~, OR~~ *OR* A NONORNAMENTAL URBAN AND SUBURBAN TREE PLANTING PROJECT;

~~4.~~ (IV) STREAM AND WETLAND RESTORATION;

~~5.~~ (V) RIPARIAN BUFFER PLANTING;

~~6.~~ (VI) A PROJECT THAT DEMONSTRATES THE EFFECTIVENESS OF AN INNOVATIVE NONPOINT SOURCE POLLUTION REDUCTION MEASURE PROVIDED THAT THE MEASURE IS CAPABLE OF INTEGRATION INTO EXISTING NONPOINT SOURCE POLLUTION PROGRAMS;

~~7. TARGETED ENFORCEMENT OF NONPOINT SOURCE POLLUTION LAWS AND REGULATIONS THAT IMPROVE WATER QUALITY;~~

~~8.~~ (VII) TECHNICAL ASSISTANCE NECESSARY TO IMPLEMENT A NONPOINT SOURCE POLLUTION CONTROL PROJECT; ~~AND~~

~~9.~~ (VIII) ~~DEVELOPMENT, REDEVELOPMENT, OR IMPROVEMENT OF A MUNICIPAL PARK PROVIDED THAT THE DEVELOPMENT, REDEVELOPMENT, OR IMPROVEMENT INCORPORATES STATE–OF–THE–ART AND SUSTAINABLE NONPOINT SOURCE POLLUTION CONTROL MEASURES~~ *IMPROVEMENT OF A MUNICIPAL PARK LOCATED ON OR ADJACENT TO A WATERWAY, PROVIDED THAT THE IMPROVEMENT IS LIMITED TO STATE–OF–THE–ART AND SUSTAINABLE NONPOINT SOURCE POLLUTION CONTROL MEASURES THAT DEMONSTRABLY IMPROVE WATER QUALITY BY REDUCING NITROGEN, PHOSPHORUS, AND SEDIMENT POLLUTION*; AND

(IX) STRATEGIC MONITORING OF WATER QUALITY IMPROVEMENTS FROM NONPOINT SOURCE POLLUTION CONTROL PROJECTS THAT HAVE BEEN FUNDED, IN WHOLE OR IN PART, WITH GRANTS FROM THE TRUST FUND.

~~(4)~~ (D) **"TRIBUTARY STRATEGIES" MEANS EACH OF MARYLAND'S 10 WATERSHED–SPECIFIC PLANS AS AMENDED FROM TIME TO TIME TO REDUCE THE AMOUNT OF NITROGEN, ~~PHOSPHOROUS~~ PHOSPHORUS, AND SEDIMENT POLLUTION THAT ENTERS THE CHESAPEAKE ~~BAY AND ITS~~ AND ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES.**

~~(5)~~ (E) **"TRUST FUND" MEANS THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS 2010 TRUST FUND.**

8–2A–03.

(A) (1) THERE IS A BAYSTAT PROGRAM TO:

(I) MEASURE AND EVALUATE EFFORTS TO RESTORE THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS; AND

(II) ADMINISTER THE TRUST FUND.

(2) THE BAYSTAT SUBCABINET SHALL OVERSEE THE ADMINISTRATION OF THE BAYSTAT PROGRAM.

(3) THE BAYSTAT SUBCABINET IS COMPOSED OF:

(I) THE SECRETARY OF NATURAL RESOURCES;

(II) THE SECRETARY OF THE ENVIRONMENT;

(III) THE SECRETARY OF PLANNING;

(IV) THE SECRETARY OF AGRICULTURE; ~~AND~~

(V) THE PRESIDENT OF THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE;

(VI) THE DEAN OF THE COLLEGE OF AGRICULTURE AND NATURAL RESOURCES AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK; AND

(VII) THE CHAIR OF THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS.

(B) THE BAYSTAT PROGRAM SHALL:

(1) PROVIDE ACCURATE AND TIMELY DATA TO POLICYMAKERS AND THE PUBLIC ABOUT THE EFFICACY AND COST–EFFECTIVENESS OF LOCAL, STATE, AND FEDERAL PROGRAMS TO RESTORE THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS;

(2) TRACK AND ASSESS THE PROGRESS OF STATE AND FEDERAL PROGRAMS TO IMPROVE THE HEALTH OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS;

(3) ASSESS THE EFFECTIVENESS OF ENFORCEMENT PROGRAMS IN CURBING POLLUTION AND ACHIEVING CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS RESTORATION GOALS AND INSTITUTE ACTIONS TO IMPROVE THE EFFECTIVENESS OF ENFORCEMENT PROGRAMS;

(4) ADOPT MEASURABLE GOALS FOR CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS RESTORATION;

(5) IDENTIFY NEW THREATS TO THE HEALTH OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS;

(6) INCREASE PUBLIC AWARENESS OF, AND PARTICIPATION IN, EFFORTS TO RESTORE THE VITALITY OF THE CHESAPEAKE BAY; AND

(7) DIRECT THE ADMINISTRATION OF THE TRUST FUND.

(C) THE BAYSTAT SUBCABINET SHALL:

(1) REPORT ANNUALLY TO THE PUBLIC REGARDING:

(I) THE HEALTH OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS TRIBUTARY BASIN;

(II) THE HEALTH OF THE ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES;

~~(II)~~ (III) THE STATUS OF LOCAL, STATE, AND FEDERAL PROGRAMS TO RESTORE THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS; AND

~~(III)~~ (IV) ESTIMATED NUTRIENT REDUCTIONS ACHIEVED THROUGH PROJECTS FINANCED BY THE TRUST FUND; AND

(2) (I) DEVELOP AN ANNUAL WORK ~~AND EXPENDITURE~~ PLAN THAT:

~~(I)~~ ~~IDENTIFIES~~ IDENTIFIES THE PLANNED WORK ~~AND EXPENDITURES~~ TO BE FUNDED WITH MONEY FROM THE TRUST FUND FOR THE NEXT FISCAL YEAR, INCLUDING ANNUAL NUTRIENT AND SEDIMENT REDUCTION TARGETS, PERFORMANCE MEASURES, AND ACCOUNTABILITY CRITERIA; AND

(II) ~~PROVIDES~~ DEVELOP AN ANNUAL EXPENDITURE PLAN THAT IDENTIFIES PLANNED EXPENDITURES FOR THE WORK PLAN AND INCLUDES AN ACCOUNTING OF ALL MONEYS DISTRIBUTED FROM THE TRUST FUND IN THE PREVIOUS FISCAL YEAR.

(D) THE GOVERNOR SHALL SUBMIT THE ANNUAL WORK AND EXPENDITURE ~~PLAN~~ PLANS TO THE GENERAL ASSEMBLY AS PART OF THE ANNUAL BUDGET SUBMISSION.

(E) ON AN ANNUAL BASIS THE BAYSTAT SUBCABINET SHALL PREPARE A FINAL WORK AND EXPENDITURE PLAN BASED ON THE BUDGET APPROVED BY THE GENERAL ASSEMBLY.

8–2A–04.

(A) THE BAYSTAT PROGRAM SHALL DIRECT THE ADMINISTRATION OF THE TRUST FUND IN ACCORDANCE WITH THIS SECTION.

(B) (1) THE BAYSTAT PROGRAM SHALL IMPLEMENT NONPOINT SOURCE POLLUTION REDUCTION MEASURES TO ACHIEVE THE TRIBUTARY STRATEGIES BY TARGETING FUNDS, GEOGRAPHICALLY AND BY PRACTICE, TO PROVEN, SCIENTIFICALLY–BASED PROJECTS THAT PROVIDE THE MOST COST–EFFECTIVE AND MEASURABLE WATER QUALITY BENEFITS TO THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS.

(2) TO THE MAXIMUM EXTENT PRACTICABLE, THE BAYSTAT PROGRAM SHALL DISTRIBUTE THE TRUST FUND MONEYS ON A COMPETITIVE BASIS.

(C) (1) THE BAYSTAT PROGRAM SHALL DISTRIBUTE FUNDS FROM THE TRUST FUND TO THE BAYSTAT SUBCABINET AGENCIES IN ACCORDANCE WITH THE FINAL WORK AND EXPENDITURE PLANS.

(2) THE BAYSTAT SUBCABINET AGENCIES SHALL ~~REDISTRIBUTE~~ ADMINISTER THE FUNDS IN ACCORDANCE WITH THE FINAL WORK AND EXPENDITURE PLANS, INCLUDING THE DISTRIBUTION OF FUNDS:

(I) THROUGH GRANTS~~, TO THE MAXIMUM EXTENT PRACTICABLE ON A COMPETITIVE BASIS,~~ TO:

1. COUNTIES;

2. BICOUNTY AGENCIES;

3. MUNICIPALITIES;

4. FOREST CONSERVANCY DISTRICT BOARDS;

5. SOIL CONSERVATION DISTRICTS;

6. ACADEMIC INSTITUTIONS; AND

7. NONPROFIT ORGANIZATIONS HAVING A DEMONSTRATED ABILITY TO IMPLEMENT NONPOINT SOURCE POLLUTION CONTROL PROJECTS; ~~AND~~

(II) TO THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND ESTABLISHED UNDER § 9–1605.3 OF THE ENVIRONMENT ARTICLE; ~~AND~~

(III) TO THE MARYLAND AGRICULTURAL COST–SHARE PROGRAM ESTABLISHED UNDER TITLE 8, SUBTITLE 7 OF THE AGRICULTURE ARTICLE FOR NONPOINT SOURCE POLLUTION CONTROL PROJECTS; *AND*

***(IV) TO THE WOODLAND INCENTIVE FUND ESTABLISHED UNDER § 5–307 OF THIS ARTICLE*.**

(3) (I) THE BAYSTAT PROGRAM SHALL DEVELOP SOLICITATIONS, GUIDELINES, AND APPLICATIONS FOR TRUST FUND GRANTS THAT SHALL INCLUDE CONSIDERATION OF THE EXTENT TO WHICH A PROPOSED PROJECT, BOTH GEOGRAPHICALLY AND BY PRACTICE, WILL DELIVER THE GREATEST, MOST COST–EFFECTIVE, AND MEASURABLE NONPOINT SOURCE POLLUTION REDUCTION PER TRUST FUND DOLLAR.

(II) THE BAYSTAT PROGRAM ~~MAY~~ SHALL ENCOURAGE AND CONSIDER ~~A~~ MULTI–YEAR, MULTI–PARTNER PROPOSALS, LOCAL MATCH~~,~~ OR

COST–SHARE AGREEMENTS, OR ~~OTHER ACTION~~ SIMILAR ACTIONS PROPOSED BY A GRANT APPLICANT IN EVALUATING A TRUST FUND GRANT APPLICATION.

~~(4) THE BAYSTAT SUBCABINET AGENCIES MAY DISTRIBUTE TO AN ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS NECESSARY TO ADMINISTER GRANT PROGRAMS, NOT TO EXCEED 1.5% OF THE ALLOCATIONS TO THE BAYSTAT SUBCABINET AGENCIES.~~

(D) ANY GRANT AGREEMENT REGARDING FUNDS FROM THE TRUST FUND SHALL:

(1) SPECIFY THE USE OF THE FUNDS PROVIDED UNDER THE GRANT, ACCOUNTABILITY MEASURES, AND PERFORMANCE REQUIREMENTS; ~~AND~~

(2) TAKE INTO ACCOUNT THE NEED FOR EFFICIENT, ~~MULTIYEAR~~ MULTI–YEAR FUNDING AND ADMINISTRATION; AND

(3) INCLUDE PROVISIONS FOR VERIFICATION THAT PRACTICES ARE BEING IMPLEMENTED.

(E) (1) A RECIPIENT OF ~~A~~ FUNDS FROM THE TRUST FUND ~~GRANT~~ IN ANY FISCAL YEAR SHALL SUBMIT AN ANNUAL REPORT TO THE BAYSTAT PROGRAM BY NOVEMBER 1 OF THE NEXT FISCAL YEAR.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

~~(I) AN ESTIMATE OF THE NUTRIENT LOADING REDUCTIONS RESULTING FROM AN ONGOING PROJECT, AND THE TIME FRAME FOR COMPLETION OF THE PROJECT; AND~~

~~(II) AN ASSESSMENT OF NUTRIENT LOADING REDUCTIONS AND WATER QUALITY BENEFITS ACHIEVED THROUGH COMPLETED PROJECTS.~~

(I) FOR AGENCIES RECEIVING MONEYS FROM THE TRUST FUND:

1. A DESCRIPTION OF HOW THE FUNDS WERE ALLOCATED, INCLUDING:

A. THE NUMBER AND AMOUNTS OF GRANTS AWARDS; AND

B. DIRECT EXPENDITURES BY THE AGENCY;

2. HOW FUNDING WAS LEVERAGED; AND

3. ESTIMATED OR CALCULATED NUTRIENT REDUCTIONS ASSOCIATED WITH TRUST FUND EXPENDITURES.

(II) FOR RECIPIENTS OF COMPETITIVE GRANTS FROM THE TRUST FUND, A DESCRIPTION OF FUNDED PROJECTS, INCLUDING:

1. PROJECT LOCATION;

2. DESCRIPTION OF PRACTICES IMPLEMENTED;

3. TIMEFRAMES FOR PROJECT COMPLETION;

4. ESTIMATED OR CALCULATED NUTRIENT REDUCTIONS; AND

5. PROVISIONS FOR LONG–TERM MAINTENANCE OF PRACTICES.

(F) FUNDS FROM THE TRUST FUND MAY NOT BE USED TO ~~PAY FOR PRIVATE PROJECTS THAT ARE REQUIRED FOR REGULATORY COMPLIANCE PURPOSES~~ ENABLE AN INDIVIDUAL CITED FOR NONCOMPLIANCE WITH A NONPOINT SOURCE POLLUTION CONTROL LAW OR REGULATION TO ACHIEVE COMPLIANCE.

(G) (1) THERE IS A BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL.

(2) THE GOVERNOR SHALL APPOINT THE CHAIR AND MEMBERS OF THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL.

(3) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL SHALL INCLUDE SCIENTISTS AND OTHER TECHNICAL EXPERTS WITH DEMONSTRATED EXPERTISE IN THE DISCIPLINES RELATED TO PROTECTION AND RESTORATION OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS.

(4) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL SHALL:

(I) ON OR BEFORE ~~SEPTEMBER~~ AUGUST 1, ANNUALLY PROVIDE RECOMMENDATIONS TO THE BAYSTAT SUBCABINET ON THE USE OF FUNDS OF THE TRUST FUND FOR THE FOLLOWING FISCAL YEAR;

(II) MONITOR THE DISTRIBUTION OF FUNDS FROM THE TRUST FUND;

(III) REVIEW THE CATEGORIES OF GRANTS MADE IN THE PREVIOUS YEAR TO ASSESS NUTRIENT LOADING REDUCTION ESTIMATES AND COST EFFICIENCIES AND THE EFFECTIVENESS OF ANY INNOVATIVE NONPOINT SOURCE POLLUTION REDUCTION MEASURE;

(IV) REVIEW THE PROPOSED ANNUAL WORK ~~AND EXPENDITURE~~ PLAN AND ADVISE THE BAYSTAT SUBCABINET OF ANY RECOMMENDED CHANGES;

(V) ON REQUEST BY THE BAYSTAT SUBCABINET, REVIEW INDIVIDUAL GRANT APPLICATIONS; AND

(VI) ANNUALLY REVIEW ANY TRUST FUND MONEYS THAT ARE NOT DISTRIBUTED ON A COMPETITIVE BASIS TO ASSESS WHETHER THOSE MONEYS MAY BE DISTRIBUTED ON A COMPETITIVE BASIS~~;~~.

(H) ~~A STATE AGENCY THAT ADMINISTERS A TRUST FUND GRANT MAY RECEIVE FROM THE FUND AN AMOUNT EQUIVALENT TO ITS REASONABLE DIRECT COSTS OF GRANT ADMINISTRATION~~ *THE BAYSTAT SUBCABINET AGENCIES MAY DISTRIBUTE TO AN ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS NECESSARY TO ADMINISTER GRANT PROGRAMS, NOT TO EXCEED 1.5% OF THE ALLOCATIONS TO THE BAYSTAT SUBCABINET AGENCIES*.

Article – Environment

9–1601.

(a) Unless the context clearly requires otherwise, in this subtitle the following words have the meanings indicated.

(b) "Administration" means the Maryland Water Quality Financing Administration.

(c) "Bay Restoration Fund" means the Bay Restoration Fund established under § 9–1605.2 of this subtitle.

(d) "Biological nutrient removal" means a biological nutrient removal technology capable of reducing the nitrogen in wastewater effluent to not more than 8 milligrams per liter, as calculated on an annually averaged basis.

(e) "Board" means the Board of Public Works.

(f) "Bond" means a bond, note, or other evidence of obligation of the Administration issued under this subtitle, including a bond or revenue anticipation note, notes in the nature of commercial paper, and refunding bonds.

(g) "Bond resolution" means the resolution or resolutions of the Director, including the trust agreement, if any, authorizing the issuance of and providing for the terms and conditions applicable to bonds.

(h) "Borrower" means a local government or a person as defined in § 1–101(h) of this article who has received a loan.

(I) "CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND" MEANS THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND ESTABLISHED UNDER § 9–1605.3 OF THIS SUBTITLE.

[(i)**] (J)** "Director" means the Director of the Administration.

[(j)**] (K)** "Drinking Water Loan Fund" means the Maryland Drinking Water Revolving Loan Fund.

[(k)**] (L)** "Eligible costs" means the costs identified under § 9–1605.2(i) of this subtitle.

[(l)**] (M)** "Enhanced nutrient removal" means:

(1) An enhanced nutrient removal technology that is capable of reducing the nitrogen and phosphorus concentrations in wastewater effluent to concentrations of not more than 3 milligrams per liter total nitrogen and not more than 0.3 milligrams per liter total phosphorus, as calculated on an annually averaged basis; or

(2) If the Department has determined that the concentrations under item (1) of this subsection are not practicable for a wastewater facility, the lowest average annual wastewater effluent nitrogen and phosphorus concentrations that the Department determines are practicable for that facility.

[(m)**] (N)** "Equivalent dwelling unit" means a measure of wastewater effluent where one unit is equivalent to:

(1) If a local government or billing authority for a wastewater facility has established a definition for "equivalent dwelling unit" on or before January 1, 2004, the average daily flow of wastewater effluent that the local government or billing authority has established to be equivalent to the average daily flow of wastewater effluent discharged by a residential dwelling, which may not exceed 250 gallons; or

(2) If a local government or billing authority has not established a definition for "equivalent dwelling unit" on or before January 1, 2004, or if a local government or billing authority has established a definition that exceeds 250 gallons of wastewater effluent per day, an average daily flow of 250 gallons of wastewater effluent.

[(n)**] (O)** "Facility" means a wastewater facility or all or a portion of a water supply system as defined in § 9–201(u) of this title.

[(o)**] (P)** "Federal Safe Drinking Water Act" means Title XIV of the Public Health Service Act, P.L. 93–523, as amended, 42 U.S.C. § 300f, et seq., and the rules and regulations promulgated thereunder.

[(p)**] (Q)** "Federal Water Pollution Control Act" means the Water Pollution Control Act of 1972, P.L. 92–500, as amended, 33 U.S.C. § 1251, et seq., and rules and regulations promulgated thereunder.

[(q)**] (R)** "Fund" means a fund established by this subtitle, including the Water Quality Fund, the Drinking Water Loan Fund, and the Bay Restoration Fund **AND THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND**.

[(r)**] (S)** "Grant" means a grant from the Administration to a grantee.

[(s)**] (T)** "Grant agreement" means a written agreement between the Administration and a grantee with respect to a grant.

[(t)**] (U)** "Grantee" means the grant recipient.

[(u)**] (V)** "Lender" has the meaning stated in § 9–1606.1 of this subtitle.

[(v)**] (W)** "Linked deposit" has the meaning stated in § 9–1606.1 of this subtitle.

[(w)**] (X)** "Linked deposit loan" has the meaning stated in § 9–1606.1 of this subtitle.

[(x)**] (Y)** "Linked deposit program" has the meaning stated in § 9–1606.1 of this subtitle.

[(y)**] (Z)** "Loan" means a loan from the Administration to a borrower for the purpose of financing all or a portion of the cost of a wastewater facility, if the loan is from the Water Quality Fund, or water supply system, if the loan is from the Drinking Water Loan Fund.

[(z)**] (AA)** "Loan agreement" means a written agreement between the Administration and a borrower with respect to a loan.

[(aa)**] (BB)** "Loan obligation" means a bond, note, or other evidence of obligation, including a mortgage, deed of trust, lien, or other security instrument, issued or executed by a borrower to evidence its indebtedness under a loan agreement with respect to a loan.

[(bb)**] (CC)** (1) "Local government" means a county, municipal corporation, sanitary district, or other State or local public entity which has authority to own or operate a facility.

(2) "Local government" includes any combination of two or more of the public entities under paragraph (1) of this subsection when acting jointly to construct or operate a facility.

[(cc)**] (DD)** (1) "Person" means an individual, corporation, partnership, association, the State, any unit of the State, commission, special taxing district, or the federal government.

(2) "Person" does not include a county, municipal corporation, bi–county or multicounty agency under Article 28 or 29 of the Code, housing authority under Division II of the Housing and Community Development Article, school board, community college, or any other unit of a county or municipal corporation.

[(dd)**] (EE)** (1) "Residential dwelling" means a room or group of rooms occupied as living quarters by an individual, a single family, or other discrete group of persons with facilities that are used or intended to be used for living, sleeping, cooking, sanitation, and eating, including an apartment unit, condominium unit, cooperative unit, town house unit, mobile home, or house.

(2) "Residential dwelling" does not include a hospital, hotel, motel, inn, boarding house, club, dormitory, school, college, or similar seasonal, institutional, or transient facility.

[(ee)**] (FF)** "Single site" means a discrete grouping of buildings or structures that are located on contiguous or adjacent property and owned by the same user.

[(ff)**] (GG)** (1) "User" means any person discharging wastewater to:

(i) A wastewater facility that has a State discharge permit or national pollutant discharge elimination system discharge permit;

(ii) An onsite sewage disposal system; or

(iii) A sewage holding tank.

(2) "User" does not include a person whose sole discharge is stormwater under a stormwater permit.

[(gg)**] (HH)** "Wastewater facility" means any equipment, plant, treatment works, structure, machinery, apparatus, interest in land, or any combination of these, which is acquired, used, constructed, or operated for the storage, collection, treatment, neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal of wastewater, or for the final disposal of residues resulting from the treatment of wastewater, including: treatment or disposal plants; outfall sewers, interceptor sewers, and collector sewers; pumping and ventilating stations, facilities, and works; programs and projects for controlling nonpoint sources of water pollution and for estuarine conservation and management; and other real or personal property and appurtenances incident to their development, use, or operation.

[(hh)**] (II)** "Water Quality Fund" means the Maryland Water Quality Revolving Loan Fund.

[(ii)**] (JJ)** "Water supply system" has the meaning stated in § 9–201(u) of this title.

9–1605.3.

(A) (1) THERE IS A CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND.

(2) THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND SHALL BE MAINTAINED AND ADMINISTERED BY THE ADMINISTRATION IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AND SUCH RULES OR PROGRAM DIRECTIVES AS THE SECRETARY OR THE BOARD MAY FROM TIME TO TIME PRESCRIBE.

(B) THE PURPOSE OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND IS TO PROVIDE FINANCIAL ASSISTANCE FOR

THE IMPLEMENTATION OF URBAN AND SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND WETLAND RESTORATION.

(C) THERE SHALL BE DEPOSITED IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND:

(1) MONEY DISTRIBUTED TO THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND UNDER § 8–2A–04 OF THE NATURAL RESOURCES ARTICLE AND APPROPRIATED IN THE STATE BUDGET FOR THE FUND;

(2) NET PROCEEDS OF BONDS ISSUED BY THE ADMINISTRATION;

(3) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEYS IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND; AND

(4) ANY OTHER MONEYS FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(D) (1) THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND IS A SPECIAL, CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) MONEY IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

(3) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND, THE TREASURER SHALL SEPARATELY HOLD, AND THE COMPTROLLER SHALL ACCOUNT FOR, THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND.

(4) SUBJECT TO THE PROVISION OF ANY APPLICABLE BOND RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND, THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND.

(6) THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND SHALL BE SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED UNDER § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

(7) THE ADMINISTRATION MAY FROM TIME TO TIME ESTABLISH ACCOUNTS AND SUBACCOUNTS WITHIN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND AS MAY BE DEEMED DESIRABLE TO EFFECTUATE THE PURPOSES OF THIS SUBTITLE, TO COMPLY WITH THE PROVISIONS OF ANY BOND RESOLUTION, OR TO MEET ANY REQUIREMENT OR RULES OR PROGRAM DIRECTIVES ESTABLISHED BY THE SECRETARY OR THE BOARD.

(8) THE ADMINISTRATION SHALL OPERATE THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND IN ACCORDANCE WITH §§ 9–1607 THROUGH 9–1622 OF THIS SUBTITLE.

(E) THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND SHALL BE USED:

(1) TO AWARD GRANTS FOR UP TO 100 PERCENT OF PROJECT COSTS RELATING TO PLANNING, DESIGN, AND CONSTRUCTION OF URBAN AND SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND WETLAND RESTORATION;

(2) AS A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION IF THE PROCEEDS OF THE SALE OF SUCH BONDS WILL BE DEPOSITED IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND;

(3) FOR COSTS ASSOCIATED WITH THE ISSUANCE OF BONDS;

(4) TO EARN INTEREST ON THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND ACCOUNTS; AND

(5) FOR THE REASONABLE COSTS OF ADMINISTERING THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND.

9–1611.

(a) Bonds may be secured by a trust agreement by and between the Administration and a corporate trustee, which may be any trust company or bank having trust powers, within or without the State. Such trust agreement may pledge or assign all or any part of the revenues or corpus of the Water Quality Fund, Drinking Water Loan Fund, **[**or**]** **THE** Bay Restoration Fund, **OR THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND,** or any account within these funds, and may pledge or assign or grant a lien on or security interest in any loan agreement or loan obligation. Any such trust agreement or resolution authorizing the issuance of bonds may contain such provisions for the protection and enforcement of the rights and remedies of the bondholders as may be deemed reasonable and proper, including covenants setting forth the duties of the Administration in relation to the making, administration and enforcement of loans and the custody, safeguarding and application of moneys. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, such trust agreement may contain such other provisions as the Director may deem reasonable and proper for the security of the bondholders, including, without limitation, covenants pertaining to the issuance of additional parity bonds upon conditions stated therein consistent with the requirements of this subtitle.

(b) The proceeds of the sale of bonds shall be disbursed in such manner and under such restrictions, if any, as may be provided in such trust agreement.

(c) (1) The revenues and moneys designated as security for bonds shall be set aside at such regular intervals as may be provided in the bond resolution in a special account in the Water Quality Fund, if the net sale proceeds will be deposited in the Water Quality Fund, the Drinking Water Loan Fund, if the net sale proceeds will be deposited in the Drinking Water Loan Fund, **[**or**]** the Bay Restoration Fund, if the net sale proceeds will be deposited in the Bay Restoration Fund, **OR THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND, IF THE NET SALE PROCEEDS WILL BE DEPOSITED IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND,** which is pledged to, and charged with, the payment of:

(i) The interest upon such bonds as such interest falls due;

(ii) The principal of such bonds as it falls due;

(iii) The necessary charges of the trustee, bond registrar, and paying agents; and

(iv) The redemption price or purchase price of bonds retired by call or purchase as provided in the bond resolution or trust agreement.

(2) Any amounts set aside in such special account which are not needed to provide for the payment of the items included under paragraph (1) of this subsection may be used for any other lawful purpose, to the extent provided in the bond resolution. Such pledge shall be valid and binding from the time when the pledge is made. Such revenues or other moneys so pledged and thereafter received by the Administration shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having any claims of any kind in tort, contract, or otherwise against the Administration or the Water Quality Fund, the Drinking Water Loan Fund, **[**or**]** the Bay Restoration Fund, **OR THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND,** irrespective of whether such parties have notice thereof. Neither the bond resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Administration, any public general or public local law to the contrary notwithstanding.

(d) Any net earnings of the Administration, beyond that necessary for the retirement of bonds or to implement the public purposes or programs of the Administration, shall not inure to the benefit of any person, other than the State of Maryland for use to accomplish the purposes of this subtitle.

9–1616.

The Administration shall not be required to give any bond as security for costs, supersedeas, or any other security in any suit or action brought by or against it, or in proceedings to which it may be a party, in any court of this State, and the Administration shall have the remedies of appeal of whatever kind to all courts without bonds, supersedeas, or security of any kind. No builder's, materialman's, contractor's, laborer's, or mechanic's liens of any kind or character shall ever attach to or become a lien upon the Water Quality Fund, the Drinking Water Loan Fund, **[**or**]** the Bay Restoration Fund**, OR THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND,** or any property, real or personal, belonging to the Administration and no assignment of wages shall be binding upon or recognized by the Administration.

9–1617.1.

(A) (1) THE ADMINISTRATION SHALL MAKE PROVISIONS FOR A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS IN ACCORDANCE WITH GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING.

(2) ALL ACCOUNTING SYSTEMS AND RECORDS, AUDITING PROCEDURES AND STANDARDS, AND FINANCIAL REPORTING FOR THE WATER QUALITY FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION

FUND, AND THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND SHALL CONFORM TO THE REQUIREMENTS OF TITLE VI OF THE FEDERAL WATER POLLUTION CONTROL ACT, THE FEDERAL SAFE DRINKING WATER ACT, THE BAY RESTORATION FUND ACT, AND THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER TITLE 8, SUBTITLE 2A OF THE NATURAL RESOURCES ARTICLE, AS APPLICABLE, AND GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING.

(B) (1) AS SOON AS PRACTICAL AFTER THE CLOSING OF THE FISCAL YEAR, AN AUDIT SHALL BE MADE OF THE FINANCIAL BOOKS, RECORDS, AND ACCOUNTS OF THE ADMINISTRATION.

(2) THE AUDIT SHALL BE MADE BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS, SELECTED BY THE ADMINISTRATION, AND LICENSED TO PRACTICE IN THE STATE AS AUDITORS.

(3) (I) THE AUDITORS MAY NOT HAVE A PERSONAL INTEREST EITHER DIRECTLY OR INDIRECTLY IN THE FISCAL AFFAIRS OF THE ADMINISTRATION; AND

(II) SHALL BE EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND AUDITING OF PUBLIC BODIES.

(4) THE AUDIT REPORT SHALL BE PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING PRINCIPLES AND POINT OUT ANY IRREGULARITIES FOUND TO EXIST.

(5) (I) THE AUDITORS SHALL REPORT TO THE SECRETARY THE RESULTS OF THEIR EXAMINATION, INCLUDING THEIR UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL POSITIONS OF THE WATER QUALITY FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION FUND, AND THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND AND THE RESULTS OF THE ADMINISTRATION'S FINANCIAL OPERATIONS.

(II) IF THE AUDITORS ARE UNABLE TO EXPRESS AN UNQUALIFIED OPINION, THE AUDITORS SHALL STATE AND EXPLAIN IN DETAIL THE REASONS FOR THEIR QUALIFICATIONS, DISCLAIMER, OR OPINION INCLUDING RECOMMENDATIONS NECESSARY TO MAKE POSSIBLE FUTURE UNQUALIFIED OPINIONS.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 8–2A–01 and 8–2A–02, respectively, of Article – Natural Resources of the Annotated Code of

Maryland, as enacted by Section 2 of this Act, shall be renumbered to be Section(s) 8–2A–02 and 8–2A–01, respectively.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

CHAPTER 122

(Senate Bill 204)

AN ACT concerning

Maryland Transit Administration – Transit–Oriented Development

FOR the purpose of establishing that the realization of certain transit–oriented development of certain property located near transit stations is a transportation purpose that is essential for the attainment of certain objectives; providing for the construction of certain provisions of this Act; defining certain terms; declaring the intent of the General Assembly for local governments to coordinate with the Maryland Transit Administration in a certain manner; and generally relating to transit oriented development.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 7–101 and 7–102
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, In recognition of the role transit plays in reducing highway congestion and greenhouse gas emissions, it is the intent of the General Assembly that land uses surrounding transit stations throughout the State be developed in a manner that is conducive to greater transit ridership and designed to promote transit, walking, and bicycling in addition to the automobile as means of transportation; and

WHEREAS, Households within one–half of a mile of transit service own fewer automobiles than households where transit is not available and people who live near transit are more likely to use transit to commute; and

WHEREAS, Transit–oriented development includes a mix of uses built in a compact form that is oriented to the transit station, streets designed to be safe and pleasant for pedestrians, buildings oriented to the streets, sufficient parking to support transit ridership and commercial land uses, and public open spaces; and

WHEREAS, The State has made a substantial investment in transit that can be leveraged to achieve smart growth outcomes; and

WHEREAS, It is in the interest of the State to support local governments as they exercise their land use authority to develop around planned transit stations in a manner that improves the efficiency and effectiveness of planned transit systems; and

WHEREAS, The support and promotion of transit–oriented development throughout the State is in the interest of the citizens of the State and is a critical component of a high functioning transportation system; now, therefore,

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

Article – Transportation

7–101.

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

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

(c) "Administrator" means the Maryland Transit Administrator.

(d) "District" means:

(1) The Metropolitan Transit District, consisting of Baltimore City, Baltimore County, Anne Arundel County, and other areas as designated by the Secretary after consultation and coordination with the affected jurisdiction and subject to the provisions of the Washington Metropolitan Transit Authority Compact; and

(2) Any area in which railroad service is performed under contract with the Administration or in which railroad facilities are owned by the Administration.

(e) "Excursion train" means any special event train sponsored or contracted for in connection with the promotion of a public event benefiting the State and its citizens.

(f) "Light rail transit" means rail transit which is electrically powered and can operate in mixed traffic with automobiles.

(g) "Private carrier" means any person that renders transit service within the District under an operating permit or license issued by an agency of this State exercising regulatory jurisdiction over transportation of passengers within this State and over persons engaged in that business.

(h) "Proof of fare payment" means evidence of fare prepayment authorized by the Administration for the use of transit service.

(i) "Railroad company" means any entity engaged in the providing of railroad service under this title.

(j) (1) "Railroad facility" means any facility used in providing railroad services, and includes any one or more or combination of:

(i) Switches, spurs, tracks, structures, terminals, yards, real property, and other facilities useful or designed for use in connection with the transportation of persons or goods by rail; and

(ii) All other appurtenances, including locomotives, cars, vehicles, and other instrumentalities of shipment or carriage, useful or designed for use in connection with the transportation of persons or goods by rail.

(2) "Railroad facility" does not include any transit facility.

(k) "Railroad service" means any service utilizing rail or railroad facilities performed by any common carrier operating under the jurisdiction of the State or federal government as a common carrier and includes any such service performed by the National Railroad Passenger Corporation.

(l) "Transit facility" includes any one or more or combination of tracks, rights–of–way, bridges, tunnels, subways, rolling stock, stations, terminals, ports, parking areas, equipment, fixtures, buildings, structures, other real or personal property, and services incidental to or useful or designed for use in connection with the rendering of transit service by any means, including rail, bus, motor vehicle, or other mode of transportation, but does not include any railroad facility.

(M) "TRANSIT–ORIENTED DEVELOPMENT" MEANS A MIX OF PRIVATE OR PUBLIC PARKING FACILITIES, COMMERCIAL AND RESIDENTIAL STRUCTURES, AND USES, IMPROVEMENTS, AND FACILITIES CUSTOMARILY APPURTENANT TO SUCH FACILITIES AND USES, THAT:

(1) IS PART OF A DELIBERATE DEVELOPMENT PLAN OR STRATEGY INVOLVING:

(I) PROPERTY THAT IS ADJACENT TO THE PASSENGER BOARDING AND ALIGHTING LOCATION OF A PLANNED OR EXISTING TRANSIT STATION; OR

(II) PROPERTY, ANY PART OF WHICH IS LOCATED WITHIN ONE–HALF MILE OF THE PASSENGER BOARDING AND ALIGHTING LOCATION OF A PLANNED OR EXISTING TRANSIT STATION;

(2) IS PLANNED TO MAXIMIZE THE USE OF TRANSIT, WALKING, AND BICYCLING BY RESIDENTS AND EMPLOYEES; AND

(3) IS DESIGNATED AS A TRANSIT–ORIENTED DEVELOPMENT BY ~~THE~~:

(I) THE SECRETARY IN CONSULTATION WITH THE SECRETARIES OF BUSINESS AND ECONOMIC DEVELOPMENT, GENERAL SERVICES, HOUSING AND COMMUNITY DEVELOPMENT, THE ENVIRONMENT, AND PLANNING; AND

(II) THE LOCAL GOVERNMENT OR MULTICOUNTY AGENCY WITH LAND USE AND PLANNING RESPONSIBILITY FOR THE RELEVANT AREA.

[(m)**] (N)** (1) "Transit service" means the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the District.

(2) "Transit service" does not include any:

(i) Taxicab service;

(ii) Vanpool operation; or

(iii) Railroad service.

[(n)**] (O) (1) "TRANSIT STATION" MEANS ANY FACILITY, THE PRIMARY FUNCTION OF WHICH RELATES TO THE BOARDING AND ALIGHTING OF PASSENGERS FROM TRANSIT VEHICLES.**

(2) "TRANSIT STATION" INCLUDES PLATFORMS, SHELTERS, PASSENGER WAITING FACILITIES, PARKING AREAS, ACCESS ROADWAYS, AND OTHER REAL PROPERTY USED TO FACILITATE PASSENGER ACCESS TO TRANSIT SERVICE OR RAILROAD SERVICE.

(P) "Transit vehicle" means a mobile device used in rendering transit service.

7–102.

(a) **(1)** The development of improved and expanded railroad facilities, railroad services, transit facilities, and transit services operating as a unified and coordinated regional transportation system, **[**is**]** **AND THE REALIZATION OF TRANSIT–ORIENTED DEVELOPMENT THROUGHOUT THE STATE, REPRESENT TRANSPORTATION PURPOSES THAT ARE** essential for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality, and the development of the metropolitan area of Baltimore and other political subdivisions of the State.

(2) THE ESTABLISHMENT OF THE REALIZATION OF TRANSIT–ORIENTED DEVELOPMENT AS A TRANSPORTATION PURPOSE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO:

(I) LIMIT THE AUTHORITY OF LOCAL GOVERNMENTS TO GOVERN LAND USE AS ESTABLISHED UNDER ANY OTHER LAW; OR

(II) GRANT THE STATE OR A DEPARTMENT OF THE STATE ADDITIONAL AUTHORITY TO SUPERSEDE LOCAL LAND USE AND PLANNING AUTHORITY.

(b) It is the policy of this title to create a regional transportation system in the District that will provide compatibility with other contiguous or neighboring systems.

(c) The desired regional transportation system cannot be achieved by the unilateral action of any one political subdivision, but requires action by this State through a State agency that is politically responsive to local needs and will assure that the development of the regional transportation system fosters general development plans for this State, the region, and the local development plans of the participating political subdivisions.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that in order for areas with planned transit stations to be considered for designation as a transit–oriented development, local governments shall coordinate with the Maryland Transit Administration on land–use planning elements

such as right–of–way preservation; density; pedestrian, bicycle, bus, and automobile access; project financing mechanisms; and other critical design elements.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

CHAPTER 123

(House Bill 373)

AN ACT concerning

Maryland Transit Administration – Transit–Oriented Development

FOR the purpose of establishing that the realization of certain transit–oriented development of certain property located near transit stations is a transportation purpose that is essential for the attainment of certain objectives; *providing for the construction of certain provisions of this Act;* defining certain terms; ~~providing for the construction of this Act;~~ *declaring the intent of the General Assembly for local governments to coordinate with the Maryland Transit Administration in a certain manner;* and generally relating to transit oriented development.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 7–101 and 7–102
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, In recognition of the role transit plays in reducing highway congestion and greenhouse gas emissions, it is the intent of the General Assembly that land uses surrounding transit stations throughout the State be developed in a manner that is conducive to greater transit ridership and designed to promote transit, walking, and bicycling in addition to the automobile as means of transportation; and

WHEREAS, Households within one–half of a mile of transit service own fewer automobiles than households where transit is not available and people who live near transit are more likely to use transit to commute; and

WHEREAS, Transit–oriented development includes a mix of uses built in a compact form that is oriented to the transit station, streets designed to be safe and pleasant for pedestrians, buildings oriented to the streets, sufficient parking to support transit ridership and commercial land uses, and public open spaces; and

WHEREAS, The State has made a substantial investment in transit that can be leveraged to achieve smart growth outcomes; and

WHEREAS, It is in the interest of the State to support local governments as they exercise their land use authority to develop around planned transit stations in a manner that improves the efficiency and effectiveness of planned transit systems; and

WHEREAS, The support and promotion of transit–oriented development throughout the State is in the interest of the citizens of the State and is a critical component of a high functioning transportation system; now, therefore,

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

Article – Transportation

7–101.

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

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

(c) "Administrator" means the Maryland Transit Administrator.

(d) "District" means:

(1) The Metropolitan Transit District, consisting of Baltimore City, Baltimore County, Anne Arundel County, and other areas as designated by the Secretary after consultation and coordination with the affected jurisdiction and subject to the provisions of the Washington Metropolitan Transit Authority Compact; and

(2) Any area in which railroad service is performed under contract with the Administration or in which railroad facilities are owned by the Administration.

(e) "Excursion train" means any special event train sponsored or contracted for in connection with the promotion of a public event benefiting the State and its citizens.

(f) "Light rail transit" means rail transit which is electrically powered and can operate in mixed traffic with automobiles.

(g) "Private carrier" means any person that renders transit service within the District under an operating permit or license issued by an agency of this State exercising regulatory jurisdiction over transportation of passengers within this State and over persons engaged in that business.

(h) "Proof of fare payment" means evidence of fare prepayment authorized by the Administration for the use of transit service.

(i) "Railroad company" means any entity engaged in the providing of railroad service under this title.

(j) (1) "Railroad facility" means any facility used in providing railroad services, and includes any one or more or combination of:

(i) Switches, spurs, tracks, structures, terminals, yards, real property, and other facilities useful or designed for use in connection with the transportation of persons or goods by rail; and

(ii) All other appurtenances, including locomotives, cars, vehicles, and other instrumentalities of shipment or carriage, useful or designed for use in connection with the transportation of persons or goods by rail.

(2) "Railroad facility" does not include any transit facility.

(k) "Railroad service" means any service utilizing rail or railroad facilities performed by any common carrier operating under the jurisdiction of the State or federal government as a common carrier and includes any such service performed by the National Railroad Passenger Corporation.

(l) "Transit facility" includes any one or more or combination of tracks, rights–of–way, bridges, tunnels, subways, rolling stock, stations, terminals, ports, parking areas, equipment, fixtures, buildings, structures, other real or personal property, and services incidental to or useful or designed for use in connection with the rendering of transit service by any means, including rail, bus, motor vehicle, or other mode of transportation, but does not include any railroad facility.

(M) "TRANSIT–ORIENTED DEVELOPMENT" MEANS A MIX OF PRIVATE OR PUBLIC PARKING FACILITIES, COMMERCIAL AND RESIDENTIAL STRUCTURES, AND USES, IMPROVEMENTS, AND FACILITIES CUSTOMARILY APPURTENANT TO SUCH FACILITIES AND USES, THAT:

(1) IS PART OF A DELIBERATE DEVELOPMENT PLAN OR STRATEGY INVOLVING:

(I) PROPERTY THAT IS ADJACENT TO THE PASSENGER BOARDING AND ALIGHTING LOCATION OF A PLANNED OR EXISTING TRANSIT STATION; OR

(II) PROPERTY, ANY PART OF WHICH IS LOCATED WITHIN ONE–HALF MILE OF THE PASSENGER BOARDING AND ALIGHTING LOCATION OF A PLANNED OR EXISTING TRANSIT STATION;

(2) IS PLANNED TO MAXIMIZE THE USE OF TRANSIT, WALKING, AND BICYCLING BY RESIDENTS AND EMPLOYEES; AND

(3) IS DESIGNATED AS A TRANSIT–ORIENTED DEVELOPMENT BY ~~THE~~:

(I) THE SECRETARY IN CONSULTATION WITH THE SECRETARIES OF BUSINESS AND ECONOMIC DEVELOPMENT, GENERAL SERVICES, HOUSING AND COMMUNITY DEVELOPMENT, THE ENVIRONMENT, AND PLANNING; AND

(II) THE LOCAL GOVERNMENT OR MULTICOUNTY AGENCY WITH LAND USE AND PLANNING RESPONSIBILITY FOR THE RELEVANT AREA.

[(m)**] (N)** (1) "Transit service" means the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the District.

(2) "Transit service" does not include any:

(i) Taxicab service;

(ii) Vanpool operation; or

(iii) Railroad service.

[(n)**] (O) (1) "TRANSIT STATION" MEANS ANY FACILITY, THE PRIMARY FUNCTION OF WHICH RELATES TO THE BOARDING AND ALIGHTING OF PASSENGERS FROM TRANSIT VEHICLES.**

(2) "TRANSIT STATION" INCLUDES PLATFORMS, SHELTERS, PASSENGER WAITING FACILITIES, PARKING AREAS, ACCESS ROADWAYS, AND OTHER REAL PROPERTY USED TO FACILITATE PASSENGER ACCESS TO TRANSIT SERVICE OR RAILROAD SERVICE.

(P) "Transit vehicle" means a mobile device used in rendering transit service.

7–102.

(a) ***(1)*** The development of improved and expanded railroad facilities, railroad services, transit facilities, and transit services operating as a unified and coordinated regional transportation system, **[**is**]** **AND THE REALIZATION OF TRANSIT–ORIENTED DEVELOPMENT THROUGHOUT THE STATE, REPRESENT TRANSPORTATION PURPOSES THAT ARE** essential for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality, and the development of the metropolitan area of Baltimore and other political subdivisions of the State.

(2) THE ESTABLISHMENT OF THE REALIZATION OF TRANSIT–ORIENTED DEVELOPMENT AS A TRANSPORTATION PURPOSE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO:

(I) LIMIT THE AUTHORITY OF LOCAL GOVERNMENTS TO GOVERN LAND USE AS ESTABLISHED UNDER ANY OTHER LAW; OR

(II) GRANT THE STATE OR A DEPARTMENT OF THE STATE ADDITIONAL AUTHORITY TO SUPERSEDE LOCAL LAND USE AND PLANNING AUTHORITY.

(b) It is the policy of this title to create a regional transportation system in the District that will provide compatibility with other contiguous or neighboring systems.

(c) The desired regional transportation system cannot be achieved by the unilateral action of any one political subdivision, but requires action by this State through a State agency that is politically responsive to local needs and will assure that the development of the regional transportation system fosters general development plans for this State, the region, and the local development plans of the participating political subdivisions.

~~SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed to:~~

~~(1) limit the authority of local governments to govern land use as established under any other law; or~~

~~(2) grant the State or a department of the State additional authority to supersede local land use and planning authority.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that in order for areas with planned transit stations to be considered for designation as a transit–oriented development, local governments shall coordinate with the Maryland Transit Administration on land–use planning elements such as right–of–way preservation; density; pedestrian, bicycle, bus, and automobile access; project financing mechanisms; and other critical design elements.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

CHAPTER 124

(Senate Bill 208)

AN ACT concerning

High Performance Buildings Act

FOR the purpose of requiring certain buildings to be high performance buildings; requiring certain buildings that are renovated to be high performance buildings under certain circumstances; exempting certain building types from certain high performance building standards; providing for a certain waiver process from certain high performance building requirements; repealing certain provisions of law relating to high performance buildings; expressing a certain intent of the General Assembly; requiring certain new schools receiving State public school construction funds to be high performance buildings; requiring the Board of Public Works to establish a certain waiver process from certain high performance building requirements; requiring that a certain waiver process include a certain review and approval by the Interagency Committee on School Construction; requiring the State to pay a certain amount of certain local costs related to the construction of schools that are high performance buildings for certain fiscal years; requiring the Board of Public Works to adopt certain regulations; providing for the applicability of certain provisions of this Act; defining certain terms; and generally relating to high performance buildings.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 3–602(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Finance and Procurement
Section 3–602.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 5–301(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Education
Section 5–312
Annotated Code of Maryland
(2006 Replacement Volume and 2007 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

3–602.

(d) **[**(1) (i) In this paragraph, "high performance building" means a building that:

1. achieves at least a silver rating according to the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) Green Building Rating System as adopted in 2001 or subsequently by the Maryland Green Building Council;

2. achieves at least a two globe rating according to the Green Globes Program as adopted by the Green Building Initiative;

3. achieves at least a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard; or

4. meets nationally recognized, consensus–based, and accepted green building guidelines, standards, or systems approved by the State.

(ii) 1. A unit of State government requesting an appropriation for preliminary planning of a proposed capital project may include in its request a justification for proposing that a building in the project is appropriate for design as a high performance building.

2. If justification is submitted under subsubparagraph 1 of this subparagraph concerning a building in a proposed capital project, the Department shall review whether it is practicable and fiscally prudent to incorporate in the capital project the use of a comprehensive process of design and construction that would result in the building being a high performance building.

(2)**] (1)** Before an appropriation may be authorized for preliminary planning of a proposed capital project:

(i) the unit of the State government requesting the appropriation shall submit to the Department a program describing, in detail, the scope and purpose of the project; and

(ii) the Secretary of Budget and Management must approve the program.

[(3)**] (2)** Before an appropriation may be authorized for construction of a proposed capital project:

(i) the unit of State government requesting the appropriation shall submit to the Departments of Budget and Management and General Services a detailed design program, which shall include all information required by the Departments; and

(ii) both the Secretary of Budget and Management and the Secretary of General Services must approve the detailed design program.

3–602.1.

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

(2) "HIGH PERFORMANCE BUILDING" MEANS A BUILDING THAT:

(I) MEETS OR EXCEEDS THE CURRENT VERSION OF THE U.S. GREEN BUILDING COUNCIL'S LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) GREEN BUILDING RATING SYSTEM SILVER RATING; OR

(II) ACHIEVES AT LEAST A COMPARABLE NUMERIC RATING ACCORDING TO A NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE NUMERIC SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR STANDARD APPROVED BY THE SECRETARIES OF BUDGET AND MANAGEMENT AND GENERAL SERVICES.

(3) "MAJOR RENOVATION" MEANS THE RENOVATION OF A BUILDING WHERE:

(I) THE BUILDING SHELL IS TO BE REUSED FOR THE NEW CONSTRUCTION;

(II) THE HEATING, VENTILATING, AND AIR CONDITIONING (HVAC), ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

(III) THE SCOPE OF THE RENOVATION IS 7,500 SQUARE FEET OR GREATER.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, TO THE EXTENT PRACTICABLE:

(1) THE STATE SHALL EMPLOY GREEN BUILDING TECHNOLOGIES WHEN CONSTRUCTING OR RENOVATING A STATE BUILDING NOT SUBJECT TO THIS SECTION; AND

(2) HIGH PERFORMANCE BUILDINGS SHALL MEET THE CRITERIA AND STANDARDS ESTABLISHED UNDER THE "HIGH EFFICIENCY GREEN BUILDING PROGRAM" ADOPTED BY THE MARYLAND GREEN BUILDING COUNCIL.

(C) (1) THIS SUBSECTION APPLIES TO CAPITAL PROJECTS THAT ARE FUNDED SOLELY WITH STATE FUNDS.

(2) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, IF A CAPITAL PROJECT INCLUDES THE CONSTRUCTION OR MAJOR RENOVATION OF A BUILDING THAT IS 7,500 SQUARE FEET OR GREATER, THE

BUILDING SHALL BE CONSTRUCTED OR RENOVATED TO BE A HIGH PERFORMANCE BUILDING.

(D) THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS ARE NOT REQUIRED TO BE CONSTRUCTED OR RENOVATED TO BE HIGH PERFORMANCE BUILDINGS:

(1) WAREHOUSE AND STORAGE FACILITIES;

(2) GARAGES;

(3) MAINTENANCE FACILITIES;

(4) TRANSMITTER BUILDINGS;

(5) PUMPING STATIONS; AND

(6) OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY THE DEPARTMENT.

(E) (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE DEPARTMENT OF GENERAL SERVICES SHALL JOINTLY ESTABLISH A PROCESS TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM COMPLYING WITH SUBSECTION (C) OF THIS SECTION.

(2) THE WAIVER PROCESS SHALL:

(I) INCLUDE A REVIEW BY THE MARYLAND GREEN BUILDING COUNCIL ESTABLISHED UNDER § 4–809 OF THIS ARTICLE, TO DETERMINE IF THE USE OF A HIGH PERFORMANCE BUILDING IN A PROPOSED CAPITAL PROJECT IS NOT PRACTICABLE; AND

(II) REQUIRE THE APPROVAL OF A WAIVER BY THE SECRETARIES OF BUDGET AND MANAGEMENT, GENERAL SERVICES, AND TRANSPORTATION.

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

Article – Education

5–301.

(d) (1) The Board of Public Works may adopt regulations for the administration of the programs provided for in this section.

(2) The regulations adopted by the Board of Public Works may contain requirements for:

(i) The development and submission of long range plans;

(ii) The submission of annual plans and plans for specific projects;

(iii) The submission of other data or information that is relevant to school construction or capital improvement;

(iv) The approval of sites, plans, and specifications for the construction of new school buildings or the improvement of existing buildings;

(v) Site improvements;

(vi) Competitive bidding;

(vii) The hiring of personnel in connection with school construction or capital improvements;

(viii) The actual construction of school buildings or their improvements;

(ix) The relative roles of different State and local governmental agencies in the planning and construction of school buildings or school capital improvements;

(x) School construction and capital improvements necessary or appropriate for the proper implementation of this section;

(xi) At the recommendation of the Interagency Committee, the establishment of priority public school construction programs;

(xii) Development of cooperative arrangements that permit the sharing of facilities among two or more school systems;

(xiii) The selection of architects and engineers by school systems;

(xiv) The award of contracts by school systems; and

(xv) Method of payments made by the State under the Public School Construction Program.

(3) The regulations adopted by the Board of Public Works shall contain provisions:

(i) Establishing a State and local cost–share formula for each county that identifies the factors used in establishing the formulas;

(ii) Requiring local education agencies to adopt educational facilities master plans and annual capital improvement programs;

(iii) Providing a method for establishing a maximum State construction allocation for each project approved for State funding;

(iv) Referencing the policies stated in § 5–7B–07 of the State Finance and Procurement Article;

(v) Requiring local school systems to adopt procedures consistent with the minority business enterprise policies of the State as required under the Code of Maryland Regulations;

(vi) Establishing a process for the appeal of decisions by the Interagency Committee to the Board of Public Works;

(vii) Requiring local education agencies to adopt, implement, and periodically update comprehensive maintenance plans; and

(viii) Authorizing the Board of Public Works to withhold State public school construction funds from a local education agency that fails to comply with the requirements of item (vii) of this paragraph.

(4) In adopting any of these requirements, the State Board and the Board of Public Works shall provide for the maximum exercise of initiative by school personnel in each county to insure that the school buildings and improvements meet both the needs of the local communities and the rules and regulations necessary to insure the proper operation of this section and the prudent expenditure of State funds.

5–312.

(A) IN THIS SECTION, "HIGH PERFORMANCE BUILDING" HAS THE MEANING STATED IN § 3–602.1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) THIS SECTION APPLIES TO THE CONSTRUCTION OF NEW SCHOOLS THAT HAVE NOT INITIATED A REQUEST FOR PROPOSAL FOR THE SELECTION OF AN ARCHITECTURAL AND ENGINEERING CONSULTANT ON OR BEFORE JULY 1, 2009.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A NEW SCHOOL THAT RECEIVES STATE PUBLIC SCHOOL CONSTRUCTION FUNDS SHALL BE CONSTRUCTED TO BE A HIGH PERFORMANCE BUILDING.

(D) (1) THE BOARD OF PUBLIC WORKS SHALL ESTABLISH A PROCESS TO ALLOW A SCHOOL SYSTEM TO OBTAIN A WAIVER FROM COMPLYING WITH SUBSECTION (C) OF THIS SECTION.

(2) THE WAIVER PROCESS SHALL:

(I) INCLUDE A REVIEW BY THE INTERAGENCY COMMITTEE TO DETERMINE IF THE CONSTRUCTION OF A HIGH PERFORMANCE BUILDING IS NOT PRACTICABLE; AND

(II) REQUIRE THE APPROVAL OF A WAIVER BY THE INTERAGENCY COMMITTEE.

(E) FOR FISCAL YEARS 2010 THROUGH 2014 ONLY, THE STATE SHALL PAY 50% OF THE LOCAL SHARE OF THE EXTRA COSTS, IDENTIFIED AND APPROVED BY THE INTERAGENCY COMMITTEE, THAT ARE INCURRED IN CONSTRUCTING A NEW SCHOOL TO MEET THE HIGH PERFORMANCE BUILDING REQUIREMENTS OF THIS SECTION.

(F) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to capital projects that have not initiated a Request For Proposal for the selection of an architectural and engineering consultant on or before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

CHAPTER 125

(Senate Bill 209)

AN ACT concerning

Renewable Portfolio Standard Percentage Requirements – Acceleration

FOR the purpose of altering the renewable energy portfolio standard by increasing the percentages of electricity sales that must be met in certain years through the accumulation of renewable energy credits from certain sources, *subject to a certain limitation*; redefining a certain renewable energy credit; ~~requiring that if the owner of a certain wind energy generating facility chooses to sell certain renewable energy credits, the owner must first offer the credits for sale to an electricity supplier that shall apply the credits toward compliance with a certain renewable energy portfolio standard;~~ increasing the maximum allowable alternative compliance payment, *subject to a certain limitation;* providing for the effective dates of this Act; *providing for the termination of a certain provision of this Act;* and generally relating to the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7–701(a) and 7–703(a)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–701(i), 7–703(b), and 7–705(b)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

~~BY adding to~~
~~Article – Public Utility Companies~~
~~Section 7–704(g)~~
~~Annotated Code of Maryland~~
~~(1998 Volume and 2007 Supplement)~~

BY adding to
Article – Public Utility Companies
Section 7–705(f)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

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

Article – Public Utility Companies

~~7–701.~~

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

~~(i) "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 in a state that is adjacent to 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.~~

7–703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under paragraph (2) 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.

(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%~~]~~ ~~**4.02%**~~ 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%~~]~~ ~~**6.05%**~~ 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, **[**3.04%**]** ~~**6.08%**~~ **5.0%** from Tier 1 renewable sources, including at least 0.04% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(7) in 2012, **[**4.06%**]** ~~**8.12%**~~ **6.5%** from Tier 1 renewable sources, including at least 0.06% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(8) in 2013, **[**4.1%**] 8.2%** from Tier 1 renewable sources, including at least 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(9) in 2014, **[**5.15%**] 10.3%** from Tier 1 renewable sources, including at least 0.15% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(10) in 2015, **[**5.25%**] 10.5%** from Tier 1 renewable sources, including at least 0.25% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(11) in 2016, **[**6.35%**] 12.7%** from Tier 1 renewable sources, including at least 0.35% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(12) in 2017, **[**6.55%**] 13.1%** from Tier 1 renewable sources, including at least 0.55% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(13) in 2018, **[**7.9%**]** **15.8%** from Tier 1 renewable sources, including at least 0.9% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(14) in 2019, **[**8.7%**]17.4%** from Tier 1 renewable sources, including at least 1.2% derived from solar energy, and 0% from Tier 2 renewable sources;

(15) in 2020, **[**9%**]** **18%** from Tier 1 renewable sources, including at least 1.5% derived from solar energy, and 0% from Tier 2 renewable sources;

(16) in 2021, **[**9.35%**]** **18.7%** from Tier 1 renewable sources, including at least 1.85% derived from solar energy, and 0% from Tier 2 renewable sources; and

(17) in 2022 and later, **[**9.5%**]** **20%** from Tier 1 renewable sources, including at least 2% derived from solar energy, and 0% from Tier 2 renewable sources.

~~7–704.~~

~~(G) IF THE OWNER OF A WIND ENERGY GENERATING FACILITY IN THE STATE CHOOSES TO SELL RENEWABLE ENERGY CREDITS FROM THAT FACILITY, THE OWNER MUST FIRST OFFER THE CREDITS FOR SALE TO AN ELECTRICITY SUPPLIER THAT SHALL APPLY THE CREDITS TOWARD COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7–703 OF THIS SUBTITLE.~~

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

Article – Public Utility Companies

7–701.

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

(i) "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 in a state that is adjacent to 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.

7–705.

(b) 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 Renewable Energy Fund established under § 7–707 of this subtitle:

(1) except as provided in item (2) of this subsection, a compliance fee of:

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

1. 45 cents in 2008;

2. 40 cents in 2009 and 2010;

3. 35 cents in 2011 and 2012;

4. 30 cents in 2013 and 2014;

5. 25 cents in 2015 and 2016;

6. 20 cents in 2017 and 2018;

7. 15 cents in 2019 and 2020;

8. 10 cents in 2021 and 2022; and

9. 5 cents in 2023 and later; and

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

(2) for industrial process load:

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

1. 0.8 cents in 2006, 2007, and 2008;

2. 0.5 cents in 2009 and 2010;

3. 0.4 cents in 2011 and 2012;

4. 0.3 cents in 2013 and 2014;

5. 0.25 cents in 2015 and 2016; and

6. 0.2 cents in 2017 and later; and

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

(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 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 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 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.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2011.

SECTION 4. AND BE IT FURTHER ENACTED, That § 7–705(f) of the Public Utility Companies Article, as enacted by this Act, shall remain effective for a period of 8 years and, at the end of December 31, 2018, with no further action required by the General Assembly, § 7–705(f) of the Public Utility Companies Article, as enacted by this Act, shall terminate and be of no further force and effect.

SECTION ~~3.~~ ~~4.~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect ~~October 1, 2008~~ January 1, 2009.

Approved by the Governor, April 24, 2008.

CHAPTER 126

(House Bill 375)

AN ACT concerning

Renewable Portfolio Standard Percentage Requirements – Acceleration

FOR the purpose of altering the renewable energy portfolio standard by increasing the percentages of electricity sales that must be met in certain years through the accumulation of renewable energy credits from certain sources, subject to a certain limitation; redefining a certain renewable energy credit; increasing the maximum allowable alternative compliance payment, subject to a certain limitation; providing for the effective dates of this Act; providing for the termination of a certain provision of this Act; and generally relating to the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7–701(a) and 7–703(a)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–701(i), 7–703(b), and 7–705(b)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY adding to
Article – Public Utility Companies
Section 7–705(f)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

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

Article – Public Utility Companies

~~7–701.~~

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

~~(i) "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 in a state that is adjacent to 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.~~

7–703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under paragraph (2) 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.

(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%**]** **4.02%** 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%**]** ~~**6.05%**~~ 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, **[**3.04%**]** ~~**6.08%**~~ **5.0%** from Tier 1 renewable sources, including at least 0.04% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(7) in 2012, **[**4.06%**]** ~~**8.12%**~~ **6.5%** from Tier 1 renewable sources, including at least 0.06% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(8) in 2013, **[**4.1%**] 8.2%** from Tier 1 renewable sources, including at least 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(9) in 2014, **[**5.15%**] 10.3%** from Tier 1 renewable sources, including at least 0.15% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(10) in 2015, **[**5.25%**] 10.5%** from Tier 1 renewable sources, including at least 0.25% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(11) in 2016, **[**6.35%**] 12.7%** from Tier 1 renewable sources, including at least 0.35% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(12) in 2017, **[**6.55%**] 13.1%** from Tier 1 renewable sources, including at least 0.55% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(13) in 2018, **[**7.9%**] 15.8%** from Tier 1 renewable sources, including at least 0.9% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(14) in 2019, **[**8.7%**]17.4%** from Tier 1 renewable sources, including at least 1.2% derived from solar energy, and 0% from Tier 2 renewable sources;

(15) in 2020, **[**9%**] 18%** from Tier 1 renewable sources, including at least 1.5% derived from solar energy, and 0% from Tier 2 renewable sources;

(16) in 2021, **[**9.35%**] 18.7%** from Tier 1 renewable sources, including at least 1.85% derived from solar energy, and 0% from Tier 2 renewable sources; and

(17) in 2022 and later, **[**9.5%**] 20%** from Tier 1 renewable sources, including at least 2% derived from solar energy, and 0% from Tier 2 renewable sources.

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

Article – Public Utility Companies

7–701.

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

(i) "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 in a state that is adjacent to 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.

7–705.

(b) 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 Renewable Energy Fund established under § 7–707 of this subtitle:

(1) except as provided in item (2) of this subsection, a compliance fee of:

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

1. 45 cents in 2008;

2. 40 cents in 2009 and 2010;

3. 35 cents in 2011 and 2012;

4. 30 cents in 2013 and 2014;

5. 25 cents in 2015 and 2016;

6. 20 cents in 2017 and 2018;

7. 15 cents in 2019 and 2020;

8. 10 cents in 2021 and 2022; and

9. 5 cents in 2023 and later; and

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

(2) for industrial process load:

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

1. 0.8 cents in 2006, 2007, and 2008;

2. 0.5 cents in 2009 and 2010;

3. 0.4 cents in 2011 and 2012;

4. 0.3 cents in 2013 and 2014;

5. 0.25 cents in 2015 and 2016; and

6. 0.2 cents in 2017 and later; and

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

(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 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 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 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.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2011.

SECTION 4. AND BE IT FURTHER ENACTED, That § 7–705(f) of the Public Utility Companies Article, as enacted by this Act, shall remain effective for a period of 8 years and, at the end of December 31, 2018, with no further action required by the General Assembly, § 7–705(f) of the Public Utility Companies Article, as enacted by this Act, shall terminate and be of no further force and effect.

SECTION ~~2.~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect ~~October 1, 2008~~ January 1, 2009.

Approved by the Governor, April 24, 2008.

CHAPTER 127

(Senate Bill 268)

AN ACT concerning

Regional Greenhouse Gas Initiative – Maryland Strategic Energy Investment Program

FOR the purpose of repealing the Maryland Renewable Energy Fund and establishing the Maryland Strategic Energy Investment Program in the Maryland Energy Administration; establishing the purpose of the Program; establishing the duties of the Administration under the Program; establishing the Maryland Strategic Energy Investment Fund; providing that the Fund is a special, nonlapsing fund not subject to a certain law; requiring the Treasurer to hold the Fund and the Comptroller to account for the Fund; providing for the funding of the Fund; requiring the Administration to use the Fund for certain purposes; specifying the allocation of the moneys received each year by the Fund; limiting the use of funds from certain compliance fees to certain purposes; requiring the Fund to be invested in a certain manner; requiring the investment earnings from the Fund and the repayment of principal and interest on loans made from the Fund to be paid to the Fund; requiring expenditures from the Fund to be made by certain appropriations or budget amendments; requiring the Administration to develop a certain plan; requiring the Administration to hold ~~a~~ certain public ~~hearing~~ *meetings*; establishing the Strategic Energy Investment Advisory Board; providing for the membership and charge of the Board; requiring the Administration to monitor and analyze the impact of certain programs, projects, activities, and investments; requiring the Administration to take certain measures based on certain findings; requiring the Administration to disclose certain information regarding certain contracts in a certain manner; authorizing the Administration to enter into certain contracts with certain

parties for certain purposes; prohibiting a person from knowingly making or causing to be made certain false statements; establishing that a certain violation is a misdemeanor; establishing certain penalties; *requiring that certain proceeds from the sale of certain allowances be deposited in the Fund;* providing for the transfer of certain moneys from the Maryland Renewable Energy Fund to the Maryland Strategic Energy Investment Fund; defining certain terms; requiring the Administration to submit certain reports to the Governor and the General Assembly by certain dates; altering the circumstances under which certain money in the Maryland Clean Air Fund must be deposited to the General Fund; ~~making certain provisions of this Act contingent on the taking effect of another Act;~~ providing for the initial terms of members of the Strategic Energy Investment Advisory Board; and generally relating to the Maryland Strategic Energy Investment Program.

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7–701(a) ~~and 7–512.1(f)(2)~~
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section ~~7–701(c)~~ ~~7–512.1(f)(3), 7–701(c),~~ *7–701(c)* and 7–705(b)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY repealing
Article – Public Utility Companies
Section 7–707
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 9–20B–01 through ~~9–20B–07~~ 9–20B–12 to be under the new subtitle "Subtitle 20B. Maryland Strategic Energy Investment Program"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 2–107(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 2–107(b) and (c)(4) *and 2–1002(g)*
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Environment~~
~~Section 2–107(c)(4)~~
~~Annotated Code of Maryland~~
~~(2007 Replacement Volume and 2007 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 Utility Companies

~~7–512.1.~~

~~(f) (2) There is an electric universal service program fund.~~

~~(3) (i) 1. The Comptroller shall collect the revenue collected by electric companies under subsection (b) of this section and place the revenue into the fund.~~

~~2. The General Assembly may appropriate funds supplemental to the funds collected under sub–subparagraph 1 of this subparagraph.~~

~~3. THE FUND MAY RECEIVE FUNDS TRANSFERRED FROM THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER § 9–20B–05 OF THE STATE GOVERNMENT ARTICLE.~~

~~(ii) The fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.~~

~~(iii) The purpose of the fund is to assist electric customers as provided in subsection (a)(1) of this section.~~

7–701.

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

(c) "Fund" means the **[**Maryland Renewable Energy Fund established under § 7–707 of this subtitle**]** **MARYLAND STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER § 9–20B–05 OF THE STATE GOVERNMENT ARTICLE**.

7–705.

(b) 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 Renewable Energy Fund established under § 7–707 of this subtitle**]** **MARYLAND STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER § 9–20B–05 OF THE STATE GOVERNMENT ARTICLE**:

(1) except as provided in item (2) of this subsection, a compliance fee of:

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

1. 45 cents in 2008;

2. 40 cents in 2009 and 2010;

3. 35 cents in 2011 and 2012;

4. 30 cents in 2013 and 2014;

5. 25 cents in 2015 and 2016;

6. 20 cents in 2017 and 2018;

7. 15 cents in 2019 and 2020;

8. 10 cents in 2021 and 2022; and

9. 5 cents in 2023 and later; and

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

(2) for industrial process load:

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

1. 0.8 cents in 2006, 2007, and 2008;

2. 0.5 cents in 2009 and 2010;

3. 0.4 cents in 2011 and 2012;

4. 0.3 cents in 2013 and 2014;

5. 0.25 cents in 2015 and 2016; and

6. 0.2 cents in 2017 and later; and

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

[7–707.

(a) There is a Maryland Renewable Energy Fund.

(b) The purpose of the Fund is to encourage the development of resources to generate renewable energy in the State.

(c) Subject to oversight by the Commission, the Administration shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) compliance fees paid under § 7–705 of this subtitle;

(2) payments received in repayment of a loan;

(3) investment earnings of the Fund; and

(4) any other money from any other source accepted for the benefit of the Fund.

(f) (1) (i) Subject to subparagraph (ii) of this paragraph, the Fund may be used only to make loans and grants to support the creation of new Tier 1 renewable sources in the State.

(ii) Compliance fees paid under § 7–705(b)(1)(ii) of this subtitle shall be accounted for separately within the Fund and may be used only to make loans and grants to support the creation of new solar energy sources in the State.

(2) By regulation the Commission shall adopt eligibility criteria for projects supported by the Fund.

(3) (i) The Administration shall receive and review applications for loans and grants for eligible projects.

(ii) The Administration shall approve or disapprove applications for loans and grants from the Fund.

(4) (i) Subject to subparagraph (ii) of this paragraph, the Commission may allow the use of money of the Fund for administrative expenses related to the Fund and project review and oversight.

(ii) The Administration and the Commission may not spend more than 10% of the funds placed in the Fund for administrative expenses.

(g) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the Fund.

(h) (1) On or before February 1 of each year, the Administration, in consultation with the Commission, shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on the status of the Fund.

(2) The report shall include:

(i) all amounts received by and disbursed from the Fund;

(ii) all amounts used by the Administration and the Commission for administrative purposes;

(iii) the evaluation criteria used by the Administration in making loans and grants from the Fund and in selecting recipients of those loans and grants;

(iv) the number and amounts of loans and grants made in the preceding calendar year;

(v) the status of loans pending as of the end of the preceding calendar year;

(vi) the allocation of disbursements for development of new solar and other Tier 1 renewable sources;

(vii) the projected receipts of the Fund in the current calendar year; and

(viii) plans for the use of resources of the Fund in the current calendar year.**]**

Article – State Government

SUBTITLE 20B. MARYLAND STRATEGIC ENERGY INVESTMENT PROGRAM.

9–20B–01.

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

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

(C) "~~ADVISORY~~ BOARD" MEANS THE STRATEGIC ENERGY INVESTMENT ADVISORY BOARD ESTABLISHED UNDER § 9–20B–07 OF THIS SUBTITLE.

(D) "FUND" MEANS THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND.

~~(D)~~ (E) "PROGRAM" MEANS THE MARYLAND STRATEGIC ENERGY INVESTMENT PROGRAM.

9–20B–02.

THERE IS A MARYLAND STRATEGIC ENERGY INVESTMENT PROGRAM IN THE MARYLAND ENERGY ADMINISTRATION.

9–20B–03.

THE PURPOSE OF THE PROGRAM IS TO DECREASE ENERGY DEMAND AND INCREASE ENERGY SUPPLY TO PROMOTE AFFORDABLE, RELIABLE, AND CLEAN ENERGY TO FUEL MARYLAND'S FUTURE PROSPERITY.

9–20B–04.

THE ADMINISTRATION SHALL:

(1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;

(2) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM AND TO ENSURE THAT FUND RESOURCES ARE UTILIZED ONLY TO CARRY OUT THE PURPOSES OF THE PROGRAM;

(3) ATTACH SPECIFIC TERMS AND CONDITIONS TO ANY GRANT, LOAN, OR OTHER FORM OF ASSISTANCE THAT ARE DETERMINED BY THE ADMINISTRATION AS NECESSARY TO ENSURE THAT THE PURPOSES OF THE PROGRAM ARE FULFILLED;

(4) DEVELOP PROCEDURES FOR MONITORING ~~PROJECTS~~ PROGRAMS, PROJECTS, ACTIVITIES, AND INVESTMENTS TO VERIFY THAT FUND RESOURCES ARE BEING USED TO MEET THE PURPOSES OF THE PROGRAM; AND

(5) PROVIDE MONEYS ANNUALLY OR AS NEEDED TO THE CLEAN AIR FUND MANAGED BY THE DEPARTMENT OF THE ENVIRONMENT TO FUND THE COSTS OF THE DEPARTMENT'S PROGRAMS TO REDUCE OR MITIGATE THE EFFECTS OF CLIMATE CHANGE.

9–20B–05.

(A) THERE IS A MARYLAND STRATEGIC ENERGY INVESTMENT FUND.

(B) THE PURPOSE OF THE FUND IS TO IMPLEMENT THE STRATEGIC ENERGY INVESTMENT PROGRAM.

(C) THE ADMINISTRATION SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) ALL OF THE PROCEEDS FROM THE SALE OF ALLOWANCES UNDER § 2–1002(G) OF THE ENVIRONMENT ARTICLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE PROGRAM;

(3) REPAYMENTS AND PREPAYMENTS OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND;

(4) INTEREST AND INVESTMENT EARNINGS ON THE FUND;

(5) COMPLIANCE FEES PAID UNDER § 7–705 OF THE PUBLIC UTILITY COMPANIES ARTICLE; AND

(6) MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE FOR THE BENEFIT OF THE FUND.

(F) THE ADMINISTRATION SHALL USE THE FUND:

(1) TO INVEST IN THE PROMOTION, DEVELOPMENT, AND IMPLEMENTATION OF:

(I) COST–EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, PROJECTS, OR ACTIVITIES, INCLUDING MEASUREMENT AND VERIFICATION OF ENERGY SAVINGS;

(II) RENEWABLE AND CLEAN ENERGY RESOURCES; ~~AND~~

(III) CLIMATE CHANGE ~~RESEARCH AND OTHER~~ PROGRAMS DIRECTLY RELATED TO REDUCING OR MITIGATING THE EFFECTS OF CLIMATE CHANGE; AND

(IV) DEMAND RESPONSE PROGRAMS THAT ARE DESIGNED TO PROMOTE CHANGES IN ELECTRIC USAGE BY CUSTOMERS IN RESPONSE TO:

1. CHANGES IN THE PRICE OF ELECTRICITY OVER TIME; OR

2. INCENTIVES DESIGNED TO INDUCE LOWER ELECTRICITY USE AT TIMES OF HIGH WHOLESALE MARKET PRICES OR WHEN SYSTEM RELIABILITY IS JEOPARDIZED;

(2) TO PROVIDE TARGETED PROGRAMS, PROJECTS, ACTIVITIES, AND INVESTMENTS TO REDUCE ELECTRICITY CONSUMPTION BY CUSTOMERS IN THE LOW–INCOME AND MODERATE–INCOME RESIDENTIAL ~~SECTOR~~ *SECTORS*;

(3) TO PROVIDE SUPPLEMENTAL FUNDS FOR LOW–INCOME ~~ENERGY~~ *ELECTRICITY* ASSISTANCE ~~TO~~ *THROUGH* THE ELECTRIC UNIVERSAL SERVICE PROGRAM ~~FUND UNDER THE ELECTRIC UNIVERSAL SERVICE PROGRAM~~ ESTABLISHED UNDER § 7–512.1 OF THE PUBLIC ~~UTILITIES~~ COMPANIES ARTICLE *AND OTHER ELECTRICITY ASSISTANCE PROGRAMS IN THE DEPARTMENT OF HUMAN RESOURCES*;

(4) TO PROVIDE RATE RELIEF BY OFFSETTING ELECTRICITY RATES OF RESIDENTIAL CUSTOMERS, INCLUDING AN OFFSET OF SURCHARGES IMPOSED ON RATEPAYERS UNDER § 7–211 OF THE PUBLIC UTILITY COMPANIES ARTICLE;

~~(3)~~ (5) TO PROVIDE GRANTS, LOANS, AND OTHER ASSISTANCE AND INVESTMENT AS NECESSARY AND APPROPRIATE TO IMPLEMENT THE PURPOSES OF THE PROGRAM AS SET FORTH IN § 9–20B–03 OF THIS SUBTITLE;

(6) TO IMPLEMENT ENERGY–RELATED PUBLIC EDUCATION AND OUTREACH INITIATIVES REGARDING REDUCING ENERGY CONSUMPTION AND GREENHOUSE GAS EMISSIONS; AND

~~(4)~~ (7) TO PAY THE EXPENSES OF THE PROGRAM.

(G) ~~(1) FOR FISCAL YEARS 2009 THROUGH 2011, MONEYS~~ *MONEYS* RECEIVED EACH YEAR BY THE FUND SHALL BE ALLOCATED EACH YEAR AS FOLLOWS:

~~(I)~~ *(1)* ~~THE GREATER OF 7% OR $10,000,000~~ 17% SHALL BE TRANSFERRED TO *THE DEPARTMENT OF HUMAN RESOURCES TO BE USED FOR* THE ELECTRIC UNIVERSAL SERVICE PROGRAM ~~FUND~~ *AND OTHER ELECTRICITY ASSISTANCE PROGRAMS IN THE DEPARTMENT OF HUMAN RESOURCES*; ~~AND~~

~~(II) THE BALANCE OF THE FUND SHALL BE ALLOCATED AS FOLLOWS:~~

~~1.~~ ~~(II)~~ *(2)* ~~35%~~ 23% TO PROVIDE RATE RELIEF BY OFFSETTING ELECTRICITY RATES OF RESIDENTIAL CUSTOMERS, INCLUDING AN OFFSET OF SURCHARGES IMPOSED ON RATEPAYERS UNDER § 7–211 OF THE

PUBLIC UTILITY COMPANIES ARTICLE, ON A PER CUSTOMER BASIS AND IN A MANNER PRESCRIBED BY THE PUBLIC SERVICE COMMISSION;

~~2.~~ ~~(III)~~ *(3)* **AT LEAST ~~50%~~ 46% FOR ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, PROJECTS, OR ACTIVITIES AND DEMAND RESPONSE PROGRAMS, OF WHICH AT LEAST ONE–HALF SHALL BE TARGETED TO:**

~~A.~~ ~~1.~~ *(I)* **THE LOW–INCOME RESIDENTIAL SECTOR ~~WITH~~ *AT* NO COST TO THE PARTICIPANTS OF THE PROGRAMS, PROJECTS, OR ACTIVITIES; AND**

~~B.~~ ~~2.~~ *(II)* **THE MODERATE INCOME RESIDENTIAL SECTOR ~~WITH MINIMAL COST TO THE PARTICIPANTS OF THE PROGRAMS, PROJECTS, OR ACTIVITIES~~;**

~~3.~~ ~~(IV)~~ *(4)* **UP TO ~~11%~~ 10.5% FOR:**

~~A.~~ ~~1.~~ *(I)* **SUBJECT TO SUBSECTION ~~(II)~~ *(I)* OF THIS SECTION, RENEWABLE AND CLEAN ENERGY PROGRAMS AND INITIATIVES;**

~~B.~~ ~~2.~~ ~~CLIMATE CHANGE PROGRAMS; AND~~

~~C.~~ ~~3.~~ *(II)* **ENERGY–RELATED PUBLIC EDUCATION AND OUTREACH; AND**

(III) CLIMATE CHANGE PROGRAMS; AND

~~4.~~ ~~(V)~~ *(5)* **UP TO ~~4%~~ 3.5%, BUT NOT MORE THAN ~~$5,000,000~~ *$4,000,000*, FOR COSTS RELATED TO THE ADMINISTRATION OF THE FUND, INCLUDING THE REVIEW OF ELECTRIC COMPANY PLANS FOR ACHIEVING ELECTRICITY SAVINGS AND DEMAND REDUCTIONS THAT THE ELECTRIC COMPANIES ARE REQUIRED UNDER LAW TO SUBMIT TO THE ADMINISTRATION.**

~~(2) FOR FISCAL YEARS AFTER 2011, IF THE GENERAL ASSEMBLY DOES NOT TAKE FURTHER ACTION SPECIFYING THE ALLOCATION OF THE FUNDS TO BE USED UNDER THIS SUBTITLE, MONEYS RECEIVED ANNUALLY BY THE FUND SHALL BE ALLOCATED EACH YEAR AS INDICATED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

(H) (1) ENERGY EFFICIENCY AND CONSERVATION PROGRAMS UNDER SUBSECTION (G)(3) OF THIS SECTION INCLUDE:

(I) LOW–INCOME ENERGY EFFICIENCY PROGRAMS;

(II) RESIDENTIAL AND SMALL BUSINESS ENERGY EFFICIENCY PROGRAMS;

(III) COMMERCIAL AND INDUSTRIAL ENERGY EFFICIENCY PROGRAMS;

(IV) STATE AND LOCAL ENERGY EFFICIENCY PROGRAMS;

(V) DEMAND RESPONSE PROGRAMS;

(VI) LOAN PROGRAMS AND ALTERNATIVE FINANCING MECHANISMS; AND

(VII) GRANTS TO TRAINING FUNDS AND OTHER ORGANIZATIONS SUPPORTING JOB TRAINING FOR DEPLOYMENT OF ENERGY EFFICIENCY AND ENERGY CONSERVATION TECHNOLOGY AND EQUIPMENT.

(2) ENERGY–RELATED PUBLIC EDUCATION AND OUTREACH AND RENEWABLE AND CLEAN ENERGY PROGRAMS AND INITIATIVES UNDER SUBSECTION (G)(4)(I) AND (II) OF THIS SECTION INCLUDE:

(I) PRODUCTION INCENTIVES FOR SPECIFIED RENEWABLE ENERGY SOURCES;

(II) EXPANSION OF EXISTING GRANT PROGRAMS FOR SOLAR, GEOTHERMAL, AND WIND PROGRAMS;

(III) LOAN PROGRAMS AND ALTERNATIVE FINANCING MECHANISMS; AND

(IV) CONSUMER EDUCATION AND OUTREACH PROGRAMS THAT ARE DESIGNED TO REACH LOW–INCOME COMMUNITIES.

~~(II)~~ *(I)* (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, COMPLIANCE FEES PAID UNDER § 7–705(B) OF THE PUBLIC UTILITY COMPANIES ARTICLE MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW TIER 1 RENEWABLE ENERGY SOURCES IN THE STATE.

(2) COMPLIANCE FEES PAID UNDER § 7–705(B)(1)(II) OF THE PUBLIC UTILITY COMPANIES ARTICLE SHALL BE ACCOUNTED FOR

SEPARATELY WITHIN THE FUND AND MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW SOLAR ENERGY SOURCES IN THE STATE.

~~(H)~~ ~~(I)~~ *(J)* (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(3) ANY REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND SHALL BE PAID INTO THE FUND.

(4) BALANCES IN THE FUND SHALL BE HELD FOR THE BENEFIT OF THE PROGRAM, SHALL BE EXPENDED SOLELY FOR THE PURPOSES OF THE PROGRAM, AND MAY NOT BE USED FOR THE GENERAL OBLIGATIONS OF GOVERNMENT.

~~(I)~~ ~~(J)~~ *(K)* EXPENDITURES FROM THE FUND SHALL BE MADE BY:

(1) AN APPROPRIATION IN THE ANNUAL STATE BUDGET; OR

(2) A BUDGET AMENDMENT IN ACCORDANCE WITH § 7–209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

~~(K)~~ *(L)* AN EXPENDITURE BY BUDGET AMENDMENT MAY BE MADE UNDER SUBSECTION ~~(J)~~ *(K)* OF THIS SECTION ONLY AFTER:

(1) THE ADMINISTRATION HAS SUBMITTED THE PROPOSED BUDGET AMENDMENT AND SUPPORTING DOCUMENTATION TO THE SENATE BUDGET AND TAXATION COMMITTEE, SENATE FINANCE COMMITTEE, HOUSE APPROPRIATIONS COMMITTEE, AND ~~HOME~~ HOUSE ECONOMIC MATTERS COMMITTEE; AND

(2) THE COMMITTEES HAVE HAD 45 DAYS FOR REVIEW AND COMMENT.

9–20B–06.

(A) ON OR BEFORE DECEMBER 15, 2008, THE ADMINISTRATION SHALL DEVELOP A PLAN FOR EXPENDITURES FROM THE FUND FOR FISCAL YEAR 2009 AND FISCAL YEAR 2010.

(B) ON OR BEFORE SEPTEMBER 1, 2009, AND EVERY 3 YEARS THEREAFTER, THE ADMINISTRATION SHALL DEVELOP A PLAN FOR EXPENDITURES COVERING THE NEXT 3 FISCAL YEARS.

~~**(C) THE ADMINISTRATION SHALL:**~~

~~**(1) HOLD A PUBLIC MEETING IN CONJUNCTION WITH THE DEVELOPMENT OF A PLAN; AND**~~

(C) (1) THE ADMINISTRATION SHALL HOLD ONE OR MORE PUBLIC MEETINGS IN CONJUNCTION WITH THE DEVELOPMENT OF A PLAN.

(2) THE ADMINISTRATION:

(I) SHALL HOLD AT LEAST FOUR PUBLIC MEETINGS ACROSS THE STATE DURING THE DEVELOPMENT OF THE INITIAL PLAN UNDER SUBSECTION (A) OF THIS SECTION, IN THE EASTERN, SOUTHERN, CENTRAL, AND WESTERN PARTS OF THE STATE, RESPECTIVELY; AND

(II) IS ENCOURAGED TO SOLICIT INPUT FROM ALL REGIONS OF THE STATE IN DEVELOPING SUBSEQUENT PLANS UNDER THIS SECTION.

~~**(2)**~~ ***(3)*** ***THE ADMINISTRATION SHALL*** **SUBMIT ~~THE~~ *A* PLAN TO THE ~~ADVISORY BOARD~~ *BOARD* FOR REVIEW.**

9–20B–07.

(A) THERE IS A STRATEGIC ENERGY INVESTMENT ADVISORY BOARD.

(B) (1) THE ~~ADVISORY BOARD~~ *BOARD* SHALL REVIEW THE PROGRAM AND THE ADMINISTRATION'S PROPOSED USES OF AND EXPENDITURES FROM THE FUND AND MAKE RECOMMENDATIONS TO THE ADMINISTRATION CONCERNING ANY PROPOSED USE OR EXPENDITURE.

(2) THE ADMINISTRATION SHALL CONSIDER THE ~~ADVISORY BOARD'S~~ *BOARD'S* RECOMMENDATIONS WHEN MAKING DECISIONS ABOUT USES AND EXPENDITURES FROM THE FUND.

(C) THE ~~ADVISORY BOARD~~ *BOARD* ~~SHALL CONSIST~~ *CONSISTS* OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES;

(3) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) ~~A REPRESENTATIVE~~ *TWO REPRESENTATIVES* OF MARYLAND RESIDENTIAL CUSTOMERS;

(II) A REPRESENTATIVE OF MARYLAND COMMERCIAL CUSTOMERS;

(III) A REPRESENTATIVE OF LARGE ELECTRICITY USERS IN THE STATE;

(IV) A REPRESENTATIVE OF AN ELECTRIC COMPANY;

(V) A REPRESENTATIVE OF AN ELECTRIC COOPERATIVE;

~~(V)~~ *(VI)* A REPRESENTATIVE OF ELECTRICITY SUPPLIERS;

~~(VI)~~ *(VII)* A REPRESENTATIVE OF A MARYLAND ENVIRONMENTAL GROUP; AND

~~(VII)~~ *(VIII)* A REPRESENTATIVE OF A RENEWABLE ELECTRICITY INDUSTRY; AND

(4) THE FOLLOWING NONVOTING EX OFFICIO MEMBERS:

(I) THE CHAIRMAN OF THE PUBLIC SERVICE COMMISSION OR THE CHAIRMAN'S DESIGNEE;

(II) THE PEOPLE'S COUNSEL OR THE DESIGNEE OF THE ~~OFFICE OF~~ PEOPLE'S COUNSEL; *AND*

(III) THE SECRETARY OF THE ENVIRONMENT OR THE SECRETARY'S DESIGNEE~~; AND~~.

~~(IV) THE DIRECTOR OF THE ADMINISTRATION OR THE DIRECTOR'S DESIGNEE.~~

(D) IF A REGULATED LOBBYIST IS APPOINTED TO SERVE AS A MEMBER OF THE ~~ADVISORY BOARD~~ *BOARD*, THE LOBBYIST:

(1) IS NOT SUBJECT TO § 15–504(D) OF ~~THE STATE GOVERNMENT ARTICLE~~ *THIS ARTICLE* WITH RESPECT TO THAT SERVICE; AND

(2) IS NOT SUBJECT TO § 15–703(F)(3) OF ~~THE STATE GOVERNMENT ARTICLE~~ *THIS ARTICLE* AS A RESULT OF THAT SERVICE.

(E) (1) THE TERMS OF A MEMBER APPOINTED BY THE GOVERNOR IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS APPOINTED BY THE GOVERNOR ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ~~ADVISORY BOARD~~ *BOARD* ON JUNE 1, 2008.

(3) THE ~~ADVISORY BOARD~~ *BOARD* SHALL MEET AT LEAST 2 TIMES EACH YEAR.

(4) *THE BOARD MAY ACT ONLY BY THE AFFIRMATIVE VOTE OF AT LEAST SIX VOTING MEMBERS.*

***(5)* A MEMBER OF THE ~~ADVISORY BOARD~~ *BOARD*:**

(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ~~ADVISORY BOARD~~ *BOARD*; BUT

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

(F) THE ADMINISTRATION SHALL PROVIDE STAFF SUPPORT FOR THE ~~ADVISORY BOARD~~ *BOARD*.

9–20B–08.

(A) THE ADMINISTRATION REGULARLY SHALL DISCLOSE SUMMARY INFORMATION REGARDING ANY CONTRACT ENTERED INTO BY THE ADMINISTRATION THAT ENCUMBERS $100,000 OR MORE FROM THE FUND.

(B) FOR EACH OF THE CONTRACTS SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION, THE FOLLOWING INFORMATION SHALL BE POSTED ON THE ADMINISTRATION'S WEBSITE ON A QUARTERLY BASIS:

(1) THE NAME AND BUSINESS ADDRESS OF THE PARTIES OF THE CONTRACT;

(2) A SUMMARY OF THE GOODS AND SERVICES TO BE PROVIDED UNDER THE CONTRACT; AND

(3) THE MAXIMUM AMOUNT OF MONEYS FROM THE FUND THAT MAY BE OBLIGATED BY THE CONTRACT.

9–20B–09.

(A) THE ADMINISTRATION SHALL MONITOR AND ANALYZE THE IMPACT OF EACH PROGRAM, PROJECT, ACTIVITY, AND INVESTMENT TO ENSURE THAT THE OUTCOME OF EACH PROGRAM, PROJECT, ACTIVITY, OR INVESTMENT ~~PROVIDES THE BEST POSSIBLE RESULTS~~ *ACHIEVES THE PURPOSES OF THE PROGRAM*.

(B) IN MONITORING AND ANALYZING THE IMPACT OF A PROGRAM, PROJECT, ACTIVITY, OR INVESTMENT UNDER SUBSECTION (A) OF THIS SECTION, IF THE ADMINISTRATION FINDS THAT THE OUTCOME OF THE PROGRAM, PROJECT, ACTIVITY, OR INVESTMENT ~~MAY~~ *IS* NOT ~~BE PROVIDING THE BEST POSSIBLE RESULTS~~ *ACHIEVING THE PURPOSES OF THE PROGRAM*, THE ADMINISTRATION SHALL TAKE SPECIFIC MEASURES TO ADDRESS THE FINDINGS.

9–20B–10.

THE ADMINISTRATION MAY ENTER INTO CONTRACTS WITH THIRD PARTIES TO ASSIST IN THE DEVELOPMENT AND IMPLEMENTATION OF PROGRAMS AND PROJECTS THAT WILL ADVANCE THE PURPOSES OF THE PROGRAM OR TO ADMINISTER THE PROGRAM, INCLUDING CONTRACTS WITH THIRD PARTIES TO MAKE, SERVICE, OR SETTLE LOANS AND OTHER ASSISTANCE OR INVESTMENTS MADE THROUGH THE PROGRAM.

~~9–20B–07.~~ 9–20B–11.

(A) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT OR REPORT IN ANY DOCUMENT REQUIRED TO BE FURNISHED TO THE ADMINISTRATION BY ANY AGREEMENT RELATING TO A GRANT, LOAN, OR OTHER FINANCIAL ASSISTANCE.

(B) A PERSON APPLYING FOR A GRANT, LOAN, OR OTHER FINANCIAL ASSISTANCE THROUGH THE PROGRAM MAY NOT KNOWINGLY MAKE OR CAUSE

TO BE MADE ANY FALSE STATEMENTS FOR THE PURPOSE OF INFLUENCING ANY ACTION OF THE ADMINISTRATION ON AN APPLICATION OR FOR THE PURPOSE OF INFLUENCING ANY ACTION OF THE ADMINISTRATION AFFECTING ANY GRANT, LOAN, OR OTHER FINANCIAL ASSISTANCE ALREADY PROVIDED.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $50,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

9–20B–12.

(A) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE ADMINISTRATION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE USES AND EXPENDITURES OF THE FUND FROM THE PRIOR FISCAL YEAR.

(B) THE REPORT SHALL INCLUDE:

(1) A DETAILED ACCOUNTING OF ALL AMOUNTS RECEIVED BY AND DISBURSED FROM THE FUND;

(2) ALL AMOUNTS USED BY THE ADMINISTRATION FOR ADMINISTRATIVE PURPOSES;

(3) THE PROGRAMS, PROJECTS, AND ACTIVITIES INCLUDED IN EACH CATEGORY UNDER § 9–20B–05(G) OF THIS SUBTITLE;

~~(3)~~ *(4)* THE STATUS OF PROGRAMS, PROJECTS, ACTIVITIES, AND INVESTMENTS IMPLEMENTED WITH FUNDS FROM THE FUND, INCLUDING AN EVALUATION OF THE IMPACT OF THE PROGRAMS, PROJECTS, ACTIVITIES, AND INVESTMENTS THAT ARE DIRECTED TO LOW–INCOME OR MODERATE–INCOME RESIDENTIAL SECTORS OR TO OTHER PARTICULAR CLASSES OF RATEPAYERS;

~~(4)~~ *(5)* AN ESTIMATE OF ELECTRICITY SAVINGS FROM THE PROGRAMS, PROJECTS, ACTIVITIES, AND INVESTMENTS;

~~(5)~~ *(6)* THE NUMBER OF ALLOWANCES SOLD IN EACH AUCTION;

~~(6)~~ *(7)* THE AVERAGE ALLOWANCE PRICE FROM EACH AUCTION;

~~(7)~~ *(8)* AN ESTIMATE OF REVENUE FROM FUTURE AUCTIONS; AND

~~(8)~~ *(9)* RECOMMENDATIONS FOR CHANGES TO THE ALLOCATION OF FUNDS UNDER § 9–20B–05(G) OF THIS SUBTITLE.

Article – Environment

2–107.

(a) There is a Maryland Clean Air Fund.

(b) ~~All~~ ***EXCEPT AS PROVIDED IN § 2–1002(G) OF THIS TITLE, ALL*** application fees, permit fees, renewal fees, and funds collected by the Department under this title**, [**or**]** Title 6, Subtitle 4 of this article**, OR ~~PURSUANT TO TITLE 9~~ *RECEIVED FROM THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9–20B–05(G)(4)(III)* OF THE STATE GOVERNMENT ARTICLE,** including any civil or administrative penalty or any fine imposed by a court under these provisions, shall be paid into the Maryland Clean Air Fund.

(c) (4) When the Fund equals or exceeds a maximum limit of **[**$750,000**]** **$2,000,000**, additional moneys received for the Fund by the Department shall be deposited to the General Fund.

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

~~**Article – Environment**~~

~~2–107.~~

~~(c) (4) **(I) [**When**] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, WHEN** the Fund equals or exceeds a maximum limit of $2,000,000, additional moneys received for the Fund by the Department shall be deposited to the General Fund.~~

~~(II) IF THE SECRETARY DETERMINES THAT ADDITIONAL MONEY IS NECESSARY TO IMPLEMENT THE REQUIREMENTS OF SUBTITLE 12 OF THIS TITLE, ADDITIONAL MONEY MAY BE RETAINED IN THE FUND UP TO A MAXIMUM LIMIT OF $5,000,000, SOLELY FOR PURPOSES OF IMPLEMENTING SUBTITLE 12 OF THIS TITLE.~~

2–1002.

(g) (1) ***IN THIS SUBSECTION, "ALLOWANCE" MEANS ONE TON OF CARBON DIOXIDE THAT MAY BE BOUGHT, SOLD, TRADED, OR BANKED FOR USE UNDER THE REGIONAL GREENHOUSE GAS INITIATIVE.***

(2) *Not later than June 30, 2007, the Governor shall include the State as a full participant in the Regional Greenhouse Gas Initiative among Mid–Atlantic and Northeast states.*

[*(2)****] (3)*** *The State may withdraw from the Initiative, as provided in the December 20, 2005 memorandum of understanding of the Initiative, at any time after January 1, 2009.*

[*(3)****] (4)*** *If the Regional Greenhouse Gas Initiative expires and there is a successor organization with the same purposes and goals, the Governor is encouraged to join the State in the successor organization.*

(5) NOTWITHSTANDING § 2–107 OF THIS TITLE, ALL OF THE PROCEEDS FROM THE SALE OF MARYLAND ALLOWANCES UNDER THE REGIONAL GREENHOUSE GAS INITIATIVE SHALL BE DEPOSITED IN THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9–20B–05 OF THE STATE GOVERNMENT ARTICLE.

[*(4)****] (6)*** *If the State's participation in the Regional Greenhouse Gas Initiative ceases for any reason, the Governor shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, regarding:*

(i) Why participation ceased; and

(ii) A plan to reduce carbon dioxide emissions from power plants in the State that considers the use of Maryland grown, native, warm season grasses as a possible method of reducing carbon emissions.

SECTION ~~2.~~ ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That the Maryland Strategic Energy Investment Fund is the successor to the Maryland Renewable Energy Fund and any moneys remaining in the Maryland Renewable Energy Fund on the effective date of this Act shall be transferred by the State Treasurer to the Maryland Strategic Energy Investment Fund.

SECTION ~~4.~~ *3.* AND BE IT FURTHER ENACTED, That the initial terms of members of the Strategic Energy Investment Advisory Board appointed by the Governor under § 9–20B–06(c)(3) of the State Government Article, as enacted by this Act, expire as follows:

(1) ~~2~~ *3* members on June 30, 2010;

(*2*) ~~2~~ *3* members on June 30, 2011; and

(3) 3 members on June 30, 2012.

~~SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect contingent on the taking effect of Chapter ____ (S.B. 309/H.B. 712) of the Acts of the General Assembly of 2008, and if Chapter ____ does not become effective, Section 2 of this Act shall be null and void without the necessity of further action by the General Assembly.~~

SECTION ~~3.~~ ~~6.~~ *4.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ *June* 1, 2008.

Approved by the Governor, April 24, 2008.

CHAPTER 128

(House Bill 368)

AN ACT concerning

Regional Greenhouse Gas Initiative – Maryland Strategic Energy Investment Program

FOR the purpose of repealing the Maryland Renewable Energy Fund and establishing the Maryland Strategic Energy Investment Program in the Maryland Energy Administration; establishing the purpose of the Program; establishing the duties of the Administration under the Program; establishing the Maryland Strategic Energy Investment Fund; providing that the Fund is a special, nonlapsing fund not subject to a certain law; requiring the Treasurer to hold the Fund and the Comptroller to account for the Fund; providing for the funding of the Fund; requiring the Administration to use the Fund for certain purposes, according to certain allocations; limiting the use of funds from certain compliance fees to certain purposes; requiring the Fund to be invested in a certain manner; requiring the investment earnings from the Fund and the repayment of principal and interest on loans made from the Fund to be paid to the Fund; requiring expenditures from the Fund to be made by certain appropriations or budget amendments; requiring that an expenditure from the Fund by budget amendment may be made only under certain circumstances; establishing the Strategic Energy Investment Advisory Board; providing for the membership and charge of the Board; requiring the Administration to disclose

certain information regarding certain contracts in a certain manner; requiring the Administration to develop certain plans for expenditures from the Fund; requiring the Administration to hold certain public meetings; requiring the Administration to submit certain reports to the General Assembly; authorizing the Administration to enter into certain contracts with certain parties for certain purposes; prohibiting a person from knowingly making or causing to be made certain false statements; establishing that a certain violation is a misdemeanor; establishing certain penalties; requiring that certain proceeds from the sale of certain allowances be deposited in the Fund; providing for the transfer of certain moneys from the Maryland Renewable Energy Fund to the Maryland Strategic Energy Investment Fund; defining certain terms; providing for the initial terms of members of the Strategic Energy Investment Advisory Board; and generally relating to the Maryland Strategic Energy Investment Program.

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7–701(a)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–701(c) and 7–705(b)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY repealing
Article – Public Utility Companies
Section 7–707
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 9–20B–01 through ~~9–20B–07~~ ~~9–20B–10~~ *9–20B–12* to be under the new subtitle "Subtitle 20B. Maryland Strategic Energy Investment Program"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 2–107(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 2–107(b) *and (c)(4)* and 2–1002(g)
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

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

Article – Public Utility Companies

7–701.

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

(c) "Fund" means the **[**Maryland Renewable Energy Fund established under § 7–707 of this subtitle**]** **MARYLAND STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER § 9–20B–05 OF THE STATE GOVERNMENT ARTICLE**.

7–705.

(b) 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 Renewable Energy Fund established under § 7–707 of this subtitle**]** **MARYLAND STRATEGIC ENERGY INVESTMENT FUND ESTABLISHED UNDER § 9–20B–05 OF THE STATE GOVERNMENT ARTICLE**:

(1) except as provided in item (2) of this subsection, a compliance fee of:

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

1. 45 cents in 2008;

2. 40 cents in 2009 and 2010;

3. 35 cents in 2011 and 2012;

4. 30 cents in 2013 and 2014;

5. 25 cents in 2015 and 2016;

6. 20 cents in 2017 and 2018;

7. 15 cents in 2019 and 2020;

8. 10 cents in 2021 and 2022; and

9. 5 cents in 2023 and later; and

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

(2) for industrial process load:

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

1. 0.8 cents in 2006, 2007, and 2008;

2. 0.5 cents in 2009 and 2010;

3. 0.4 cents in 2011 and 2012;

4. 0.3 cents in 2013 and 2014;

5. 0.25 cents in 2015 and 2016; and

6. 0.2 cents in 2017 and later; and

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

[7–707.

(a) There is a Maryland Renewable Energy Fund.

(b) The purpose of the Fund is to encourage the development of resources to generate renewable energy in the State.

(c) Subject to oversight by the Commission, the Administration shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) compliance fees paid under § 7–705 of this subtitle;

(2) payments received in repayment of a loan;

(3) investment earnings of the Fund; and

(4) any other money from any other source accepted for the benefit of the Fund.

(f) (1) (i) Subject to subparagraph (ii) of this paragraph, the Fund may be used only to make loans and grants to support the creation of new Tier 1 renewable sources in the State.

(ii) Compliance fees paid under § 7–705(b)(1)(ii) of this subtitle shall be accounted for separately within the Fund and may be used only to make loans and grants to support the creation of new solar energy sources in the State.

(2) By regulation the Commission shall adopt eligibility criteria for projects supported by the Fund.

(3) (i) The Administration shall receive and review applications for loans and grants for eligible projects.

(ii) The Administration shall approve or disapprove applications for loans and grants from the Fund.

(4) (i) Subject to subparagraph (ii) of this paragraph, the Commission may allow the use of money of the Fund for administrative expenses related to the Fund and project review and oversight.

(ii) The Administration and the Commission may not spend more than 10% of the funds placed in the Fund for administrative expenses.

(g) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the Fund.

(h) (1) On or before February 1 of each year, the Administration, in consultation with the Commission, shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on the status of the Fund.

(2) The report shall include:

(i) all amounts received by and disbursed from the Fund;

(ii) all amounts used by the Administration and the Commission for administrative purposes;

(iii) the evaluation criteria used by the Administration in making loans and grants from the Fund and in selecting recipients of those loans and grants;

(iv) the number and amounts of loans and grants made in the preceding calendar year;

(v) the status of loans pending as of the end of the preceding calendar year;

(vi) the allocation of disbursements for development of new solar and other Tier 1 renewable sources;

(vii) the projected receipts of the Fund in the current calendar year; and

(viii) plans for the use of resources of the Fund in the current calendar year.**]**

Article – State Government

SUBTITLE 20B. MARYLAND STRATEGIC ENERGY INVESTMENT PROGRAM.

9–20B–01.

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

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

(C) ***"BOARD" MEANS THE STRATEGIC ENERGY INVESTMENT ADVISORY BOARD ESTABLISHED UNDER § 9–20B–07 OF THIS SUBTITLE.***

(D) **"FUND" MEANS THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND.**

~~**(D)**~~ ***(E)*** **"PROGRAM" MEANS THE MARYLAND STRATEGIC ENERGY INVESTMENT PROGRAM.**

9–20B–02.

THERE IS A MARYLAND STRATEGIC ENERGY INVESTMENT PROGRAM IN THE MARYLAND ENERGY ADMINISTRATION.

9–20B–03.

THE PURPOSE OF THE PROGRAM IS TO DECREASE ENERGY DEMAND AND INCREASE ENERGY SUPPLY TO PROMOTE AFFORDABLE, RELIABLE, AND CLEAN ENERGY TO FUEL MARYLAND'S FUTURE PROSPERITY.

9–20B–04.

THE ADMINISTRATION SHALL:

(1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;

(2) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM AND TO ENSURE THAT FUND RESOURCES ARE UTILIZED ONLY TO CARRY OUT THE PURPOSES OF THE PROGRAM;

(3) ATTACH SPECIFIC TERMS AND CONDITIONS TO ANY GRANT, LOAN, OR OTHER FORM OF ASSISTANCE THAT ARE DETERMINED BY THE ADMINISTRATION AS NECESSARY TO ENSURE THAT THE PURPOSES OF THE PROGRAM ARE FULFILLED;

(4) DEVELOP PROCEDURES FOR MONITORING ~~**PROJECTS**~~ ***PROGRAMS, PROJECTS, ACTIVITIES,*** **AND INVESTMENTS TO VERIFY THAT FUND RESOURCES ARE BEING USED TO MEET THE PURPOSES OF THE PROGRAM; AND**

(5) PROVIDE MONEYS ANNUALLY OR AS NEEDED TO THE CLEAN AIR FUND MANAGED BY THE DEPARTMENT OF THE ENVIRONMENT TO FUND THE COSTS OF THE DEPARTMENT'S PROGRAMS TO REDUCE OR MITIGATE THE EFFECTS OF CLIMATE CHANGE.

9–20B–05.

(A) THERE IS A MARYLAND STRATEGIC ENERGY INVESTMENT FUND.

(B) THE PURPOSE OF THE FUND IS TO IMPLEMENT THE STRATEGIC ENERGY INVESTMENT PROGRAM.

(C) THE ADMINISTRATION SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) ALL OF THE PROCEEDS FROM THE SALE OF ALLOWANCES UNDER § 2–1002(G) OF THE ENVIRONMENT ARTICLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE PROGRAM;

(3) REPAYMENTS AND PREPAYMENTS OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND;

(4) INTEREST AND INVESTMENT EARNINGS ON THE FUND;

(5) COMPLIANCE FEES PAID UNDER § 7–705 OF THE PUBLIC UTILITY COMPANIES ARTICLE; AND

(6) MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE FOR THE BENEFIT OF THE FUND.

(F) THE ADMINISTRATION SHALL USE THE FUND:

(1) TO INVEST IN THE PROMOTION, DEVELOPMENT, AND IMPLEMENTATION OF:

(I) <u>COST–EFFECTIVE</u> ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, PROJECTS, OR ACTIVITIES<u>, INCLUDING MEASUREMENT AND VERIFICATION OF ENERGY SAVINGS</u>;

(II) RENEWABLE AND CLEAN ENERGY RESOURCES; ~~AND~~

(III) CLIMATE CHANGE ~~RESEARCH AND OTHER~~ PROGRAMS DIRECTLY RELATED TO REDUCING OR MITIGATING THE EFFECTS OF CLIMATE CHANGE; AND

(IV) DEMAND RESPONSE PROGRAMS THAT ARE DESIGNED TO PROMOTE CHANGES IN ELECTRIC USAGE BY CUSTOMERS IN RESPONSE TO:

1. CHANGES IN THE PRICE OF ELECTRICITY OVER TIME; OR

2. INCENTIVES DESIGNED TO INDUCE LOWER ELECTRICITY USE AT TIMES OF HIGH WHOLESALE MARKET PRICES OR WHEN SYSTEM RELIABILITY IS JEOPARDIZED;

(2) TO PROVIDE TARGETED PROGRAMS, PROJECTS, ACTIVITIES, AND INVESTMENTS TO REDUCE ELECTRICITY CONSUMPTION BY CUSTOMERS IN THE LOW–INCOME AND MODERATE–INCOME RESIDENTIAL SECTORS;

~~(2)~~ *(3)* TO PROVIDE *SUPPLEMENTAL* ~~TARGETED PROGRAMS TO REDUCE ELECTRICITY CONSUMPTION BY CUSTOMERS IN THE LOW–INCOME AND MODERATE–INCOME RESIDENTIAL SECTOR;~~ FUNDS FOR LOW–INCOME ENERGY ASSISTANCE THROUGH THE ELECTRIC UNIVERSAL SERVICE PROGRAM ESTABLISHED UNDER § 7–512.1 OF THE PUBLIC ~~UTILITIES COMPANY~~ *UTILITY COMPANIES* ARTICLE *AND OTHER ELECTRIC ASSISTANCE PROGRAMS IN THE DEPARTMENT OF HUMAN RESOURCES*;

~~(3)~~ *(4)* TO PROVIDE RATE RELIEF BY OFFSETTING ELECTRICITY RATES OF RESIDENTIAL CUSTOMERS, *INCLUDING AN OFFSET OF SURCHARGES IMPOSED ON RATEPAYERS UNDER § 7–211 OF THE PUBLIC UTILITY COMPANIES ARTICLE*;

~~(3)~~ ~~(4)~~ *(5)* TO PROVIDE GRANTS, LOANS, AND OTHER ASSISTANCE AND INVESTMENT AS NECESSARY AND APPROPRIATE TO IMPLEMENT THE PURPOSES OF THE PROGRAM AS SET FORTH IN § 9–20B–03 OF THIS SUBTITLE;

~~(5)~~ *(6)* TO IMPLEMENT *ENERGY–RELATED PUBLIC* EDUCATION AND OUTREACH INITIATIVES REGARDING REDUCING ENERGY CONSUMPTION AND GREENHOUSE GAS EMISSIONS; AND

~~(4)~~ ~~(6)~~ *(7)* TO PAY THE EXPENSES OF THE PROGRAM.

~~**(G) MONEYS RECEIVED EACH YEAR BY THE FUND FROM THE SALE OF ALLOWANCES UNDER § 2–1002(G) OF THE ENVIRONMENT ARTICLE SHALL BE ALLOCATED AS FOLLOWS:**~~

~~**(1) $10,000,000 SHALL BE TRANSFERRED TO THE ELECTRIC UNIVERSAL SERVICE PROGRAM FUND UNDER § 7–512.1 OF THE PUBLIC UTILITY COMPANIES ARTICLE, TO BE USED FOR BILL ASSISTANCE AND ARREARAGE RETIREMENT;**~~

~~**(2) OF ALL AMOUNTS ABOVE $10,000,000 UP TO $100,000,000:**~~

~~**(I) AT LEAST 70% SHALL BE SPENT ON ENERGY EFFICIENCY AND ENERGY CONSERVATION PROGRAMS;**~~

~~**(II) 20% MAY BE ALLOCATED TO ENERGY EDUCATION AND RENEWABLE ENERGY DEVELOPMENT;**~~

~~**(III) 5% MAY BE ALLOCATED TO CLIMATE CHANGE PROGRAMS; AND**~~

~~**(IV) UP TO 4% MAY BE USED FOR ADMINISTRATIVE EXPENSES;**~~

~~**(3) OF ALL AMOUNTS ABOVE $100,000,000 UP TO $140,000,000:**~~

~~**(I) 25% SHALL BE USED TO PROVIDE FOR RESIDENTIAL ELECTRICITY RATE RELIEF THROUGH THE ENERGY ASSISTANCE PROGRAMS UNDER THE OFFICE OF HOME ENERGY PROGRAMS IN THE DEPARTMENT OF HUMAN RESOURCES; AND**~~

~~**(II) 75% SHALL BE RETURNED TO RESIDENTIAL RATEPAYERS, IN A MANNER DETERMINED BY THE PUBLIC SERVICE COMMISSION, TO OFFSET COSTS IMPOSED ON RATEPAYERS FROM ENERGY EFFICIENCY AND CONSERVATION MEASURES AND SERVICES AND DEMAND RESPONSE PROGRAMS APPROVED BY THE COMMISSION; AND**~~

~~**(4) ALL AMOUNTS IN EXCESS OF $140,000,000 SHALL BE USED AS FOLLOWS:**~~

~~**(I) PROCEEDS FROM THE SALE OF ALLOWANCES AT AUCTIONS OCCURRING BEFORE JANUARY 1, 2011 SHALL BE RETURNED TO**~~

~~RESIDENTIAL RATEPAYERS, IN A MANNER DETERMINED BY THE PUBLIC SERVICE COMMISSION:~~

~~1. TO OFFSET COSTS IMPOSED ON RATEPAYERS FROM ENERGY EFFICIENCY AND CONSERVATION MEASURES AND SERVICES AND DEMAND RESPONSE PROGRAMS APPROVED BY THE COMMISSION; AND~~

~~2. FOR OTHER APPROPRIATE RATE RELIEF; AND~~

~~(II) PROCEEDS FROM THE SALE OF ALLOWANCES AT AUCTIONS OCCURRING ON OR AFTER JANUARY 1, 2011 SHALL BE DIVIDED PROPORTIONALLY AMONG THE USES SPECIFIED IN ITEMS (2) AND (3) OF THIS SUBSECTION.~~

(G) MONEYS RECEIVED EACH YEAR BY THE FUND SHALL BE ALLOCATED EACH YEAR AS FOLLOWS:

(1) 17% SHALL BE TRANSFERRED TO THE DEPARTMENT OF HUMAN RESOURCES TO BE USED FOR THE ELECTRIC UNIVERSAL SERVICE PROGRAM AND OTHER ELECTRICITY ASSISTANCE PROGRAMS IN THE DEPARTMENT OF HUMAN RESOURCES;

(2) 23% TO PROVIDE RATE RELIEF BY OFFSETTING ELECTRICITY RATES OF RESIDENTIAL CUSTOMERS, INCLUDING AN OFFSET OF SURCHARGES IMPOSED ON RATEPAYERS UNDER § 7–211 OF THE PUBLIC UTILITY COMPANIES ARTICLE, ON A PER CUSTOMER BASIS AND IN A MANNER PRESCRIBED BY THE PUBLIC SERVICE COMMISSION;

(3) AT LEAST 46% FOR ENERGY EFFICIENCY AND CONSERVATION PROGRAMS, PROJECTS, OR ACTIVITIES AND DEMAND RESPONSE PROGRAMS, OF WHICH AT LEAST ONE–HALF SHALL BE TARGETED TO:

(I) THE LOW–INCOME RESIDENTIAL SECTOR AT NO COST TO THE PARTICIPANTS OF THE PROGRAMS, PROJECTS, OR ACTIVITIES; AND

(II) THE MODERATE–INCOME RESIDENTIAL SECTOR;

(4) UP TO 10.5% FOR:

(I) SUBJECT TO SUBSECTION (I) OF THIS SECTION, RENEWABLE AND CLEAN ENERGY PROGRAMS AND INITIATIVES;

(II) ENERGY–RELATED PUBLIC EDUCATION AND OUTREACH; AND

(III) CLIMATE CHANGE PROGRAMS; AND

(5) UP TO 3.5%, BUT NOT MORE THAN $4,000,000, FOR COSTS RELATED TO THE ADMINISTRATION OF THE FUND, INCLUDING THE REVIEW OF ELECTRIC COMPANY PLANS FOR ACHIEVING ELECTRICITY SAVINGS AND DEMAND REDUCTIONS THAT THE ELECTRIC COMPANIES ARE REQUIRED UNDER LAW TO SUBMIT TO THE ADMINISTRATION.

(H) (1) ENERGY EFFICIENCY AND ~~ENERGY~~ CONSERVATION PROGRAMS UNDER SUBSECTION ~~(G)(2)(I)~~ *(G)(3)* OF THIS SECTION INCLUDE:

(I) LOW–INCOME ENERGY EFFICIENCY PROGRAMS;

(II) RESIDENTIAL AND SMALL BUSINESS ENERGY EFFICIENCY PROGRAMS;

(III) COMMERCIAL AND INDUSTRIAL ENERGY EFFICIENCY PROGRAMS;

(IV) STATE AND LOCAL ENERGY EFFICIENCY PROGRAMS;

(V) DEMAND RESPONSE PROGRAMS; ~~AND~~

(VI) LOAN PROGRAMS AND ALTERNATIVE FINANCING MECHANISMS; AND

~~(VI)~~ *(VII)* GRANTS TO TRAINING FUNDS AND OTHER ORGANIZATIONS SUPPORTING JOB TRAINING FOR DEPLOYMENT OF ENERGY EFFICIENCY AND ENERGY CONSERVATION TECHNOLOGY AND EQUIPMENT.

(2) ~~ENERGY~~ *ENERGY–RELATED PUBLIC* EDUCATION *AND OUTREACH* AND RENEWABLE *AND CLEAN* ENERGY ~~DEVELOPMENT~~ *PROGRAMS AND INITIATIVES* UNDER SUBSECTION ~~(G)(2)(II)~~ *(G)(4)(I) AND (II)* OF THIS SECTION INCLUDE:

(I) PRODUCTION INCENTIVES FOR SPECIFIED RENEWABLE ENERGY SOURCES;

(II) EXPANSION OF EXISTING GRANT PROGRAMS FOR SOLAR, GEOTHERMAL, AND WIND PROGRAMS;

(III) LOAN PROGRAMS AND ALTERNATIVE FINANCING MECHANISMS; AND

(IV) CONSUMER EDUCATION AND OUTREACH PROGRAMS *THAT ARE DESIGNED TO REACH LOW–INCOME COMMUNITIES*.

~~(G)~~ (I) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, COMPLIANCE FEES PAID UNDER § 7–705(B) OF THE PUBLIC UTILITY COMPANIES ARTICLE MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW TIER 1 RENEWABLE ENERGY SOURCES IN THE STATE.

(2) COMPLIANCE FEES PAID UNDER § 7–705(B)(1)(II) OF THE PUBLIC UTILITY COMPANIES ARTICLE SHALL BE ACCOUNTED FOR SEPARATELY WITHIN THE FUND AND MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW SOLAR ENERGY SOURCES IN THE STATE.

~~(H)~~ (J) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(3) ANY REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND SHALL BE PAID INTO THE FUND.

(4) BALANCES IN THE FUND SHALL BE HELD FOR THE BENEFIT OF THE PROGRAM, SHALL BE EXPENDED SOLELY FOR THE PURPOSES OF THE PROGRAM, AND MAY NOT BE USED FOR THE GENERAL OBLIGATIONS OF GOVERNMENT.

~~(I)~~ (K) EXPENDITURES FROM THE FUND SHALL BE MADE BY:

(1) AN APPROPRIATION IN THE ANNUAL STATE BUDGET; OR

(2) A BUDGET AMENDMENT IN ACCORDANCE WITH § 7–209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(L) AN EXPENDITURE BY BUDGET AMENDMENT MAY BE MADE UNDER SUBSECTION (K) OF THIS SECTION ONLY AFTER:

(1) THE ADMINISTRATION HAS SUBMITTED THE PROPOSED BUDGET AMENDMENT AND SUPPORTING DOCUMENTATION TO THE SENATE BUDGET AND TAXATION COMMITTEE, SENATE FINANCE COMMITTEE, HOUSE APPROPRIATIONS COMMITTEE, AND HOUSE ECONOMIC MATTERS COMMITTEE; AND

(2) THE COMMITTEES HAVE HAD 45 DAYS FOR REVIEW AND COMMENT.

~~**(M) (1) THE ADMINISTRATION REGULARLY SHALL DISCLOSE SUMMARY INFORMATION REGARDING ANY CONTRACT ENTERED INTO BY THE ADMINISTRATION THAT ENCUMBERS $100,000 OR MORE FROM THE FUND.**~~

~~**(2) FOR EACH OF THE CONTRACTS SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE FOLLOWING INFORMATION SHALL BE POSTED ON THE ADMINISTRATION'S WEBSITE ON A QUARTERLY BASIS:**~~

~~**(I) THE NAME AND BUSINESS ADDRESS OF THE PARTIES OF THE CONTRACT;**~~

~~**(II) A SUMMARY OF THE GOODS AND SERVICES TO BE PROVIDED UNDER THE CONTRACT; AND**~~

~~**(III) THE MAXIMUM AMOUNT OF MONEYS FROM THE FUND THAT MAY BE OBLIGATED BY THE CONTRACT.**~~

9–20B–06.

(A) ON OR BEFORE DECEMBER 15, 2008, THE ADMINISTRATION SHALL DEVELOP A PLAN FOR EXPENDITURES FROM THE FUND FOR FISCAL YEAR 2009 AND FISCAL YEAR 2010.

(B) ON OR BEFORE SEPTEMBER 1, 2009, AND EVERY 3 YEARS THEREAFTER, THE ADMINISTRATION SHALL DEVELOP A PLAN FOR EXPENDITURES COVERING THE NEXT 3 FISCAL YEARS.

(C) (1) THE ADMINISTRATION SHALL HOLD ONE OR MORE PUBLIC MEETINGS IN CONJUNCTION WITH THE DEVELOPMENT OF A PLAN.

(2) THE ADMINISTRATION:

(I) SHALL HOLD AT LEAST FOUR PUBLIC MEETINGS ACROSS THE STATE DURING THE DEVELOPMENT OF THE INITIAL PLAN UNDER

SUBSECTION (A) OF THIS SECTION, IN THE EASTERN, SOUTHERN, CENTRAL, AND WESTERN PARTS OF THE STATE, RESPECTIVELY; AND

(II) IS ENCOURAGED TO SOLICIT INPUT FROM ALL REGIONS OF THE STATE IN DEVELOPING SUBSEQUENT PLANS UNDER THIS SECTION.

(3) THE ADMINISTRATION SHALL SUBMIT A PLAN TO THE BOARD FOR REVIEW.

~~**9–20B–06.**~~ ***9–20B–07.***

(A) THERE IS A STRATEGIC ENERGY INVESTMENT ADVISORY BOARD.

(B) (1) THE BOARD SHALL REVIEW THE PROGRAM AND THE ADMINISTRATION'S PROPOSED USES OF AND EXPENDITURES FROM THE FUND AND MAKE RECOMMENDATIONS TO THE ADMINISTRATION CONCERNING ANY PROPOSED USE OR EXPENDITURE.

(2) THE ADMINISTRATION SHALL CONSIDER THE BOARD'S RECOMMENDATIONS WHEN MAKING DECISIONS ABOUT USES AND EXPENDITURES FROM THE FUND.

(C) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES;

(3) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) TWO REPRESENTATIVES OF MARYLAND RESIDENTIAL CUSTOMERS;

(II) A REPRESENTATIVE OF MARYLAND COMMERCIAL CUSTOMERS;

(III) A REPRESENTATIVE OF LARGE ELECTRICITY USERS IN THE STATE;

(IV) A REPRESENTATIVE OF AN ELECTRIC COMPANY;

(V) A REPRESENTATIVE OF AN ELECTRIC COOPERATIVE;

(VI) A REPRESENTATIVE OF ELECTRICITY SUPPLIERS;

(VII) A REPRESENTATIVE OF A MARYLAND ENVIRONMENTAL GROUP; AND

(VIII) A REPRESENTATIVE OF A RENEWABLE ELECTRICITY INDUSTRY; AND

(4) THE FOLLOWING NONVOTING EX OFFICIO MEMBERS:

(I) THE CHAIRMAN OF THE PUBLIC SERVICE COMMISSION OR THE CHAIRMAN'S DESIGNEE;

(II) THE PEOPLE'S COUNSEL OR THE DESIGNEE OF THE PEOPLE'S COUNSEL; AND

(III) THE SECRETARY OF THE ENVIRONMENT OR THE SECRETARY'S DESIGNEE.

(D) IF A REGULATED LOBBYIST IS APPOINTED TO SERVE AS A MEMBER OF THE BOARD, THE LOBBYIST:

(1) IS NOT SUBJECT TO § 15–504(D) OF THIS ARTICLE WITH RESPECT TO THAT SERVICE; AND

(2) IS NOT SUBJECT TO § 15–703(F)(3) OF THIS ARTICLE AS A RESULT OF THAT SERVICE.

(E) (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS APPOINTED BY THE GOVERNOR ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JUNE 1, 2008.

(3) THE BOARD SHALL MEET AT LEAST ~~TWO~~ *2* TIMES EACH YEAR.

(4) THE BOARD MAY ACT ONLY BY THE AFFIRMATIVE VOTE OF AT LEAST SIX VOTING MEMBERS.

(5) A MEMBER OF THE BOARD:

(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD; BUT

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

(F) THE ADMINISTRATION SHALL PROVIDE STAFF SUPPORT FOR THE BOARD.

9–20B–08.

(A) THE ADMINISTRATION REGULARLY SHALL DISCLOSE SUMMARY INFORMATION REGARDING ANY CONTRACT ENTERED INTO BY THE ADMINISTRATION THAT ENCUMBERS $100,000 OR MORE FROM THE FUND.

(B) FOR EACH OF THE CONTRACTS SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION, THE FOLLOWING INFORMATION SHALL BE POSTED ON THE ADMINISTRATION'S WEBSITE ON A QUARTERLY BASIS:

(1) THE NAME AND BUSINESS ADDRESS OF THE PARTIES OF THE CONTRACT;

(2) A SUMMARY OF THE GOODS AND SERVICES TO BE PROVIDED UNDER THE CONTRACT; AND

(3) THE MAXIMUM AMOUNT OF MONEYS FROM THE FUND THAT MAY BE OBLIGATED BY THE CONTRACT.

9–20B–09.

(A) THE ADMINISTRATION SHALL MONITOR AND ANALYZE THE IMPACT OF EACH PROGRAM, PROJECT, ACTIVITY, AND INVESTMENT TO ENSURE THAT THE OUTCOME OF EACH PROGRAM, PROJECT, ACTIVITY, OR INVESTMENT ACHIEVES THE PURPOSES OF THE PROGRAM.

(B) IN MONITORING AND ANALYZING THE IMPACT OF A PROGRAM, PROJECT, ACTIVITY, OR INVESTMENT UNDER SUBSECTION (A) OF THIS SECTION, IF THE ADMINISTRATION FINDS THAT THE OUTCOME OF THE PROGRAM, PROJECT, ACTIVITY, OR INVESTMENT IS NOT ACHIEVING THE PURPOSES OF THE PROGRAM, THE ADMINISTRATION SHALL TAKE SPECIFIC MEASURES TO ADDRESS THE FINDINGS.

~~**9–20B–07.**~~ ***9–20B–10.***

THE ADMINISTRATION MAY ENTER INTO CONTRACTS WITH THIRD PARTIES TO ASSIST IN THE DEVELOPMENT *AND IMPLEMENTATION* OF PROGRAMS AND PROJECTS THAT WILL ADVANCE THE PURPOSES OF THE PROGRAM OR TO ADMINISTER THE PROGRAM, INCLUDING CONTRACTS WITH THIRD PARTIES TO MAKE, SERVICE, OR SETTLE LOANS AND OTHER ASSISTANCE OR INVESTMENTS MADE THROUGH THE PROGRAM.

~~**9–20B–07.**~~ ~~**9–20B–08.**~~ ***9–20B–11.***

(A) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT OR REPORT IN ANY DOCUMENT REQUIRED TO BE FURNISHED TO THE ADMINISTRATION BY ANY AGREEMENT RELATING TO A GRANT, LOAN, OR OTHER FINANCIAL ASSISTANCE.

(B) A PERSON APPLYING FOR A GRANT, LOAN, OR OTHER FINANCIAL ASSISTANCE THROUGH THE PROGRAM MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENTS FOR THE PURPOSE OF INFLUENCING ANY ACTION OF THE ADMINISTRATION ON AN APPLICATION OR FOR THE PURPOSE OF INFLUENCING ANY ACTION OF THE ADMINISTRATION AFFECTING ANY GRANT, LOAN, OR OTHER FINANCIAL ASSISTANCE ALREADY PROVIDED.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $50,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

~~**9–20B–09.**~~

~~**(A) ON OR BEFORE SEPTEMBER 1, 2008, THE ADMINISTRATION SHALL DEVELOP A PLAN FOR EXPENDITURES FROM THE FUND FOR FISCAL YEAR 2009 AND FISCAL YEAR 2010.**~~

~~**(B) ON OR BEFORE SEPTEMBER 1, 2009, AND EVERY 3 YEARS THEREAFTER, THE ADMINISTRATION SHALL DEVELOP A PLAN FOR EXPENDITURES COVERING THE NEXT 3 FISCAL YEARS.**~~

~~**(C) (1) THE ADMINISTRATION SHALL HOLD ONE OR MORE PUBLIC MEETINGS IN CONJUNCTION WITH THE DEVELOPMENT OF A PLAN.**~~

~~**(2) THE ADMINISTRATION:**~~

~~(I) SHALL HOLD AT LEAST FOUR PUBLIC MEETINGS ACROSS THE STATE DURING THE DEVELOPMENT OF THE INITIAL PLAN THAT IS DUE ON SEPTEMBER 1, 2008, IN THE EASTERN, SOUTHERN, CENTRAL, AND WESTERN PARTS OF THE STATE, RESPECTIVELY; AND~~

~~(II) IS ENCOURAGED TO SOLICIT INPUT FROM ALL REGIONS OF THE STATE IN DEVELOPING SUBSEQUENT PLANS UNDER THIS SECTION.~~

~~9–20B–10.~~ *9–20B–12.*

(A) ON OR BEFORE ~~NOVEMBER~~ *JANUARY* 1 OF EACH YEAR, THE ADMINISTRATION SHALL REPORT *TO THE GOVERNOR AND*, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE *USES AND* EXPENDITURES OF THE FUND FROM THE PRIOR FISCAL YEAR.

(B) THE REPORT SHALL INCLUDE:

(1) A DETAILED ACCOUNTING OF ALL AMOUNTS RECEIVED BY AND DISBURSED FROM THE FUND;

(2) ALL AMOUNTS USED BY THE ADMINISTRATION FOR ADMINISTRATIVE PURPOSES;

(3) *PROGRAMS, PROJECTS, AND ACTIVITIES INCLUDED IN EACH CATEGORY UNDER § 9–20B–05(G) OF THIS SUBTITLE;*

(4)* ~~PROGRAMS IMPLEMENTED WITH THE FUND~~ *THE STATUS OF PROGRAMS, PROJECTS, ACTIVITIES, AND INVESTMENTS IMPLEMENTED WITH FUNDS FROM THE FUND, INCLUDING AN EVALUATION OF THE IMPACT OF THE PROGRAMS, PROJECTS, ACTIVITIES, AND INVESTMENTS THAT ARE DIRECTED TO LOW–INCOME OR MODERATE–INCOME RESIDENTIAL SECTORS OR TO OTHER PARTICULAR CLASSES OF RATEPAYERS;

~~(4)~~ *(5)* AN ESTIMATE OF ELECTRICITY SAVINGS FROM THE PROGRAMS, *PROJECTS, ACTIVITIES, AND INVESTMENTS;*

~~(5)~~ *(6)* THE NUMBER OF ALLOWANCES SOLD IN EACH AUCTION;

~~(6)~~ *(7)* THE AVERAGE ALLOWANCE PRICE FROM EACH AUCTION; ~~AND~~

~~(7)~~ (8) **AN ESTIMATE OF REVENUE FROM FUTURE AUCTIONS*; AND***

(9) RECOMMENDATIONS FOR CHANGES TO THE ALLOCATION OF FUNDS UNDER § 9–20B–05(G) OF THIS SUBTITLE.

Article – Environment

2–107.

(a) There is a Maryland Clean Air Fund.

(b) **[**All**]** **EXCEPT AS PROVIDED IN § 2–1002(G) OF THIS TITLE, ALL** application fees, permit fees, renewal fees, and funds collected by the Department under this title ~~or~~, Title 6, Subtitle 4 of this article, ***OR RECEIVED FROM THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9–20B–05(G)(4)(III) OF THE STATE GOVERNMENT ARTICLE,*** including any civil or administrative penalty or any fine imposed by a court under these provisions, shall be paid into the Maryland Clean Air Fund.

(c) (4) When the Fund equals or exceeds a maximum limit of ***[****$750,000****]*** ***$2,000,000****, additional moneys received for the Fund by the Department shall be deposited to the General Fund.*

2–1002.

(g) (1) **IN THIS SUBSECTION, "ALLOWANCE" MEANS ONE ~~SHORT~~ TON OF CARBON DIOXIDE THAT MAY BE BOUGHT, SOLD, TRADED, OR BANKED FOR USE UNDER THE REGIONAL GREENHOUSE GAS INITIATIVE.**

(2) Not later than June 30, 2007, the Governor shall include the State as a full participant in the Regional Greenhouse Gas Initiative among Mid–Atlantic and Northeast states.

[(2)**] (3)** The State may withdraw from the Initiative, as provided in the December 20, 2005 memorandum of understanding of the Initiative, at any time after January 1, 2009.

[(3)**] (4)** If the Regional Greenhouse Gas Initiative expires and there is a successor organization with the same purposes and goals, the Governor is encouraged to join the State in the successor organization.

(5) NOTWITHSTANDING § 2–107 OF THIS TITLE, ALL OF THE PROCEEDS FROM THE SALE OF MARYLAND ALLOWANCES UNDER THE

REGIONAL GREENHOUSE GAS INITIATIVE SHALL BE DEPOSITED IN THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9–20B–05 OF THE STATE GOVERNMENT ARTICLE.

[(4)**] (6)** If the State's participation in the Regional Greenhouse Gas Initiative ceases for any reason, the Governor shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, regarding:

(i) Why participation ceased; and

(ii) A plan to reduce carbon dioxide emissions from power plants in the State that considers the use of Maryland grown, native, warm season grasses as a possible method of reducing carbon emissions.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Strategic Energy Investment Fund is the successor to the Maryland Renewable Energy Fund and any moneys remaining in the Maryland Renewable Energy Fund on the effective date of this Act shall be transferred by the State Treasurer to the Maryland Strategic Energy Investment Fund.

SECTION 3. AND BE IT FURTHER ENACTED, That the initial terms of members of the Strategic Energy Investment Advisory Board appointed by the Governor under § 9–20B–06(c)(3) of the State Government Article, as enacted by this Act, expire as follows:

(1) 3 members on June 30, 2010;

(2) 3 members on June 30, 2011; and

(3) 3 members on June 30, 2012.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2008.

Approved by the Governor, April 24, 2008.